RNI No. MAHBIL /2009/31744
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महाराष्ट्र शासन राजपत्र

भाग एक–ल

वर्ष २, अंक ३६] **गुरुवार ते बुधवार, सप्टेंबर ८-१४, २०१६/भाद्र १७-२३, शके १९३८** **[पृष्ठे ४०, किंमत : रुपये २३.००**

प्राधिकृत प्रकाशन

(केंद्रीय) औद्योगिक विवाद अधिनियम व मुंबई औद्योगिक संबंध अधिनियम यांखालील
(भाग एक, चार-अ, चार-ब आणि चार-क यांमध्ये प्रसिद्ध केलेल्या अधिसूचना, आदेश व निवाडे यांव्यतिरिक्त)
अधिसूचना, आदेश व निवाडे.

औद्योगिक न्यायालय, महाराष्ट्र, मुंबई

वाचा.—श्री. आर. एम. मुळे, सदस्य, औद्योगिक न्यायालय, मुंबई यांचा दिनांक १७ जानेवारी २०११ रोजीचा अर्ज.

रजा मंजुरी आदेश

क्रमांक १५५.—श्री. आर. एम. मुळे, सदस्य, औद्योगिक न्यायालय, मुंबई यांना त्यांच्या दिनांक १७ जानेवारी २०११ रोजीच्या अर्जासंदर्भात कळविण्यात येते की, त्यांची दिनांक १३ जानेवारी २०११ ते १५ जानेवारी २०११ पर्यंत एकूण ३ दिवसांची परिवर्तित रजा, रजेच्या पुढे दिनांक १६ जानेवारी २०११ ची सुट्टी जोडून मंजूर करण्यात आली आहे.

श्री. आर. एम. मुळे, हे रजेवर गेले नसते तर त्यांची सदस्य, औद्योगिक न्यायालय, मुंबई या पदावरील स्थानापन्न नियुक्ती पुढे चालू राहिली असती.

रजेचा उपरोक्त कालावधी संपल्यावर श्री. आर. एम. मुळे, हे सदस्य, औद्योगिक न्यायालय, मुंबई या पदावर स्थानापन्न होतील.

आदेशावरून,

के. एन. धर्माधिकारी,
प्रभारी प्रबंधक,
औद्योगिक न्यायालय, महाराष्ट्र, मुंबई.

मुंबई,
दिनांक २४ जानेवारी २०११.

औद्योगिक न्यायालय, महाराष्ट्र, मुंबई

वाचा.—१. या कार्यालयाचे आदेश क्र. १६८१, दिनांक ३० डिसेंबर २०१०.

२. श्रीमती के. एस. होरे, न्यायाधीश, कामगार न्यायालय, अकोला, यांचा अर्ज क्र. एलसीए/२१९३/२०१०, दिनांक ३० डिसेंबर २०१०.

रजा मंजुरी आदेश

क्रमांक १५७.—श्रीमती के. एस. होरे, न्यायाधीश, कामगार न्यायालय, अकोला यांना त्यांच्या दिनांक ३० डिसेंबर २०१० रोजीच्या अर्जासंदर्भात कळविण्यात येते की, त्यांची दिनांक २७ डिसेंबर २०१० ते २९ डिसेंबर २०१० पर्यंत ३ दिवसांची अर्जित रजा, रजेच्या मागे दिनांक २५ डिसेंबर २०१० व २६ डिसेंबर २०१० हे सुट्ट्यांचे दिवस जोडून मुख्यालय सोडण्याच्या परवानगीसह मंजूर करण्यात आली आहे.

श्रीमती के. एस. होरे, ह्या रजेवर गेल्या नसत्या तर त्यांची न्यायाधीश, कामगार न्यायालय, अकोला या पदावरील स्थानापन्न नियुक्ती पुढे चालू राहिली असती.

रजेचा उपरोक्त कालावधी संपल्यावर श्रीमती के. एस. होरे, ह्या न्यायाधीश, कामगार न्यायालय, अकोला या पदावर स्थानापन्न होतील.

या कार्यालयाचे आदेश क्र. १६८१, दिनांक ३० डिसेंबर २०१० याव्दारे रद्द करण्यात येत आहे.

आदेशावरून,

के. एन. धर्माधिकारी,
प्रभारी प्रबंधक,
औद्योगिक न्यायालय, महाराष्ट्र, मुंबई.

मुंबई,
दिनांक २४ जानेवारी २०११.

औद्योगिक न्यायालय, महाराष्ट्र, मुंबई

वाचा.—श्री. ए. आर. महाजन, सदस्य, औद्योगिक न्यायालय, मुंबई यांचा दिनांक १८ जानेवारी २०११ रोजीचा अर्ज.

रजा मंजुरी आदेश

क्रमांक १५८.—श्री. ए. आर. महाजन, सदस्य, औद्योगिक न्यायालय, मुंबई यांना त्यांच्या दिनांक १८ जानेवारी २०११ रोजीच्या अर्जासंदर्भात कळविण्यात येते की, त्यांची दिनांक १३ जानेवारी २०११ ते १५ जानेवारी २०११ पर्यंत एकूण ३ दिवसांची अर्जित रजा, रजेच्या पुढे दिनांक १६ जानेवारी २०११ रोजीची सुट्टी जोडून मुख्यालय सोडण्याच्या परवानगीसह मंजूर करण्यात आली आहे.

श्री. ए. आर. महाजन, हे रजेवर गेले नसते तर त्यांची सदस्य, औद्योगिक न्यायालय, मुंबई या पदावरील स्थानापन्न नियुक्ती पुढे चालू राहिली असती.

रजेचा उपरोक्त कालावधी संपल्यावर श्री. ए. आर. महाजन, हे सदस्य, औद्योगिक न्यायालय, मुंबई या पदावर स्थानापन्न होतील.

आदेशावरून,

के. एन. धर्माधिकारी,
प्रभारी प्रबंधक,
औद्योगिक न्यायालय, महाराष्ट्र, मुंबई.

मुंबई,
दिनांक २४ जानेवारी २०११.

औद्योगिक न्यायालय, महाराष्ट्र, मुंबई

वाचा.—श्री. ए. पी. ढोले, कनिष्ठ अन्वेषक अधिकारी, औद्योगिक न्यायालय, मुंबई यांचा दिनांक १७ जानेवारी २०११ रोजीचा अर्ज.

रजा मंजुरी आदेश

क्रमांक १५९.—श्री. ए. पी. ढोले, कनिष्ठ अन्वेषक अधिकारी, औद्योगिक न्यायालय, मुंबई यांना त्यांच्या दिनांक १७ जानेवारी २०११ रोजीच्या अर्जासंदर्भात कळविण्यात येते की, त्यांची दिनांक ११ जानेवारी २०११ ते १५ जानेवारी २०११ या ५ दिवसांची परिवर्तित रजा, रजेच्या पुढे दिनांक १६ जानेवारी २०११ रोजीची सुट्टी जोडून मंजूर करण्यात आली आहे.

श्री. ए. पी. ढोले, हे रजेवर गेले नसते तर त्यांची कनिष्ठ अन्वेषक अधिकारी, औद्योगिक न्यायालय, मुंबई या पदावरील स्थानापन्न नियुक्ती पुढे चालू राहिली असती.

रजेचा उपरोक्त कालावधी संपल्यावर श्री. ए. पी. ढोले, हे कनिष्ठ अन्वेषक अधिकारी, औद्योगिक न्यायालय, मुंबई या पदावर स्थानापन्न होतील.

आदेशावरून,

के. एन. धर्माधिकारी,
प्रभारी प्रबंधक,
औद्योगिक न्यायालय, महाराष्ट्र, मुंबई.

मुंबई,
दिनांक २४ जानेवारी २०११.

औद्योगिक न्यायालय, महाराष्ट्र, मुंबई

वाचा.—श्री. टी. व्ही. लामकाने, सहायक प्रबंधक, औद्योगिक न्यायालय, कोल्हापूर यांचा दिनांक १० जानेवारी २०११ रोजीचा अर्ज.

रजा मंजुरी आदेश

क्रमांक १६०.—श्री. टी. व्ही. लामकाने, सहायक प्रबंधक, औद्योगिक न्यायालय, कोल्हापूर यांना त्यांच्या दिनांक १० जानेवारी २०११ रोजीच्या अर्जासंदर्भात कळविण्यात येते की, त्यांची दिनांक १ जानेवारी २०११ ते ७ जानेवारी २०११ पर्यंत एकूण ७ दिवसांची परिवर्तित रजा, रजेच्या पुढे दिनांक ८ जानेवारी २०११ व ९ जानेवारी २०११ हे सुट्ट्यांचे दिवस जोडून मंजूर करण्यात आली आहे.

श्री. टी. व्ही. लामकाने, हे रजेवर गेले नसते तर त्यांची सहायक प्रबंधक, औद्योगिक न्यायालय, कोल्हापूर या पदावरील स्थानापन्न नियुक्ती पुढे चालू राहिली असती.

रजेचा उपरोक्त कालावधी संपल्यावर श्री. टी. व्ही. लामकाने, हे सहायक प्रबंधक, औद्योगिक न्यायालय, कोल्हापूर या पदावर स्थानापन्न होतील.

आदेशावरून,

के. एन. धर्माधिकारी,
प्रभारी प्रबंधक,
औद्योगिक न्यायालय, महाराष्ट्र, मुंबई.

मुंबई,
दिनांक २४ जानेवारी २०११.

औद्योगिक न्यायालय, महाराष्ट्र, मुंबई

वाचा.—श्री. ए. एस. महात्मे, न्यायाधीश, कामगार न्यायालय, बुलढाणा यांचा दिनांक ७ जानेवारी २०११ रोजीचा अर्ज.

रजा मंजुरी आदेश

क्रमांक १६१.—श्री. ए. एस. महात्मे, न्यायाधीश, कामगार न्यायालय, बुलढाणा यांना त्यांच्या दिनांक ७ जानेवारी २०११ रोजीच्या अर्जासंदर्भात कळविण्यात येते की, त्यांची दिनांक १० जानेवारी २०११ ते १३ जानेवारी २०११ पर्यंत एकूण ४ दिवसांची अर्जित रजा, रजेच्या मागे दिनांक ८ जानेवारी २०११ ते ९ जानेवारी २०११ हे सुट्ट्यांचे दिवस जोडून मुख्यालय सोडण्याच्या परवानगीसह मंजूर करण्यात आली आहे.

श्री. ए. एस. महात्मे, हे रजेवर गेले नसते तर त्यांची न्यायाधीश, कामगार न्यायालय, बुलढाणा या पदावरील स्थानापन्न नियुक्ती पुढे चालू राहिली असती.

रजेचा उपरोक्त कालावधी संपल्यावर श्री. ए. एस. महात्मे, हे न्यायाधीश, कामगार न्यायालय, बुलढाणा या पदावर स्थानापन्न होतील.

आदेशावरून,

के. एन. धर्माधिकारी,
प्रभारी प्रबंधक,
औद्योगिक न्यायालय, महाराष्ट्र, मुंबई.

मुंबई,
दिनांक २४ जानेवारी २०११.

औद्योगिक न्यायालय, महाराष्ट्र, मुंबई

वाचा.—श्रीमती एस. एस. कुलकर्णी, सहायक प्रबंधक, औद्योगिक न्यायालय, नागपूर यांचा दिनांक १३ जानेवारी २०११ रोजीचा अर्ज.

रजा मंजुरी आदेश

क्रमांक १६२.—श्रीमती एस. एस. कुलकर्णी, सहायक प्रबंधक, औद्योगिक न्यायालय, नागपूर यांना त्यांच्या दिनांक १३ जानेवारी २०११ रोजीच्या अर्जासंदर्भात कळविण्यात येते की, त्यांची दिनांक २७ डिसेंबर २०१० ते १२ जानेवारी २०११ पर्यंत एकूण १७ दिवसांची परिवर्तित रजा, रजेच्या मागे दिनांक २५ डिसेंबर २०१० व २६ डिसेंबर २०१० हे सुट्ट्यांचे दिवस जोडून मंजूर करण्यात आली आहे.

श्रीमती एस. एस. कुलकर्णी, ह्या रजेवर गेल्या नसत्या तर त्यांची सहायक प्रबंधक, औद्योगिक न्यायालय, नागपूर या पदावरील स्थानापन्न नियुक्ती पुढे चालू राहिली असती.

रजेचा उपरोक्त कालावधी संपल्यावर श्रीमती एस. एस. कुलकर्णी, ह्या सहायक प्रबंधक, औद्योगिक न्यायालय, नागपूर या पदावर स्थानापन्न होतील.

आदेशावरून,

के. एन. धर्माधिकारी,
प्रभारी प्रबंधक,
औद्योगिक न्यायालय, महाराष्ट्र, मुंबई.

मुंबई,
दिनांक २४ जानेवारी २०११.

औद्योगिक न्यायालय, महाराष्ट्र, मुंबई

वाचा.—श्री. जी. बी. पाटील, न्यायाधीश, २ रे कामगार न्यायालय, कोल्हापूर यांचा दिनांक १० जानेवारी २०११ रोजीचा अर्ज.

रजा मंजुरी आदेश

क्रमांक १६३.—श्री. जी. बी. पाटील, न्यायाधीश, २ रे कामगार न्यायालय, कोल्हापूर यांना त्यांच्या दिनांक १० जानेवारी २०११ रोजीच्या अर्जासंदर्भात कळविण्यात येते की, त्यांची दिनांक ६ जानेवारी २०११ ते ७ जानेवारी २०११ पर्यंत एकूण २ दिवसांची वाढीव अर्जित रजा, रजेच्या पुढे दिनांक ८ जानेवारी २०११ व ९ जानेवारी २०११ हे सुट्ट्यांचे दिवस जोडून मंजूर करण्यात आली आहे.

श्री. जी. बी. पाटील, हे रजेवर गेले नसते तर त्यांची न्यायाधीश, कामगार न्यायालय, कोल्हापूर या पदावरील स्थानापन्न नियुक्ती पुढे चालू राहिली असती.

रजेचा उपरोक्त कालावधी संपल्यावर श्री. जी. बी. पाटील, न्यायाधीश, २ रे कामगार न्यायालय, कोल्हापूर या पदावर स्थानापन्न होतील.

आदेशावरून,

के. एन. धर्माधिकारी,
प्रभारी प्रबंधक,
औद्योगिक न्यायालय, महाराष्ट्र, मुंबई.

मुंबई,
दिनांक २४ जानेवारी २०११.

औद्योगिक न्यायालय, महाराष्ट्र, मुंबई

वाचा.—श्री. के. एन. धर्माधिकारी, अतिरिक्त प्रबंधक, औद्योगिक न्यायालय, मुंबई यांचा दिनांक १५ जानेवारी २०११ रोजीचा अर्ज.

रजा मंजुरी आदेश

क्रमांक १६४.—श्री. के. एन. धर्माधिकारी, अतिरिक्त प्रबंधक, औद्योगिक न्यायालय, मुंबई यांना त्यांच्या दिनांक १५ जानेवारी २०११ रोजीच्या अर्जासंदर्भात कळविण्यात येते की, त्यांची दिनांक १७ जानेवारी २०११ ते १८ जानेवारी २०११ पर्यंत एकूण २ दिवसांची अर्जित रजा, रजेच्या मागे दिनांक १६ जानेवारी २०११ रोजीची सुट्टी जोडून मुख्यालय सोडण्याच्या परवानगीसह मंजूर करण्यात आली आहे.

श्री. के. एन. धर्माधिकारी, हे रजेवर गेले नसते तर त्यांची अतिरिक्त प्रबंधक, औद्योगिक न्यायालय, मुंबई या पदावरील स्थानापन्न नियुक्ती पुढे चालू राहिली असती.

रजेचा उपरोक्त कालावधी संपल्यावर श्री. के. एन. धर्माधिकारी, अतिरिक्त प्रबंधक, औद्योगिक न्यायालय, मुंबई या पदावर स्थानापन्न होतील.

आदेशावरून,

आर. बी. मलिक,
अध्यक्ष,
औद्योगिक न्यायालय, महाराष्ट्र, मुंबई.

मुंबई,
दिनांक २५ जानेवारी २०११.

औद्योगिक न्यायालय, महाराष्ट्र, मुंबई

वाचा.—श्री. एन. एस. बोरसे, न्यायाधीश, ३ रे कामगार न्यायालय, मुंबई यांचा दिनांक २० जानेवारी २०११ रोजीचा अर्ज.

रजा मंजुरी आदेश

क्रमांक १६७.—श्री. एन. एस. बोरसे, न्यायाधीश, ३ रे कामगार न्यायालय, मुंबई यांना त्यांच्या दिनांक २० जानेवारी २०११ रोजीच्या अर्जासंदर्भात कळविण्यात येते की, त्यांची दिनांक २४ जानेवारी २०११ ते २५ जानेवारी २०११ पर्यंत एकूण २ दिवसांची अर्जित रजा, रजेच्या मागे दिनांक २२ जानेवारी २०११ व २३ जानेवारी २०११ व रजेच्या पुढे दिनांक २६ जानेवारी २०११ हे सुट्ट्यांचे दिवस जोडून मुख्यालय सोडण्याच्या परवानगीसह मंजूर करण्यात आली आहे.

श्री. एन. एस. बोरसे, हे रजेवर गेले नसते तर त्यांची न्यायाधीश, ३ रे कामगार न्यायालय, मुंबई या पदावरील स्थानापन्न नियुक्ती पुढे चालू राहिली असती.

रजेचा उपरोक्त कालावधी संपल्यावर श्री. एन. एस. बोरसे, न्यायाधीश, ३ रे कामगार न्यायालय, मुंबई या पदावर स्थानापन्न होतील.

आदेशावरून,

के. एन. धर्माधिकारी,
प्रभारी प्रबंधक,
औद्योगिक न्यायालय, महाराष्ट्र, मुंबई.

मुंबई,
दिनांक २५ जानेवारी २०११.

सहायक निबंधक, मुंबई औद्योगिक संबंध अधिनियम, १९४६, नागपूर यांचे समक्ष

औद्योगिक तपासणी १/२००९.

अर्जदार कामगार संघटनेचे नाव .—— हिंदुस्थान कम्पोझीट्स एम्पलॉईज युनियन राजेगांव, एम. आय. डी. सी. भंडारा, पो. गडेगांव, तह. जि. भंडारा.

अर्जदार कामगार संघटनेने मुंबई औद्योगिक संबंध अधिनियम, १९४६ चे कलम १३(१) अंतर्गत हिंदुस्थान कम्पोझीट्स लि., गडेगांव या उद्योगाकरिता भंडारा तालुका, जि. भंडारा येथे प्रातिनिधीक कामगार संघटना म्हणून नोंदणी करण्याचा अर्ज.

आदेश

(दिनांक १ जानेवारी २०११)

जनरल सेक्रेटरी, हिंदुस्थान कम्पोझीट्स युनियन, राजेगांव, एम. आय. डी. सी. भंडारा, नोंदणी क्रमांक एन. जी. पी. ५०४३ यांनी मुंबई औद्योगिक संबंध अधिनियम, १९४६ चे कलम १३(१) अंतर्गत दिनांक ११ फेब्रुवारी २००९ रोजी प्रपत्र "ई" मध्ये अर्ज दाखल करून मे. हिंदुस्थान कम्पोझीट्स लि., प्लॉट नं. सी-१०/१, एम. आय. डी. सी. औद्योगिक क्षेत्र, गडेगांव जि. भंडारा या स्थानिक क्षेत्रातील क्लच फॅसिंग ॲण्ड ब्रेक लायनींग या उद्योगात प्रातिनिधीक कामगार संघटना म्हणून नोंदणी मिळावी म्हणून अर्ज सादर केला.

यावर अर्ज युनियनने मे. हिंदुस्थान कॅम्पोझीट्स लि., गडेगांव येथे त्यांच्या सभासदांची संख्या माहे नोव्हेंबर, २००८ मध्ये ९७, डिसेंबर, २००८ व जानेवारी, २००९ मध्ये प्रत्येकी १०८ असून त्याची टक्केवारी अनुक्रमे १०० टक्के व १०० टक्के इतकी असल्याचे कळविलेले आहे.

सदर युनियन श्रमिक संघ अधिनियम, १९२६ अंतर्गत नागपूर येथे दिनांक ७ फेब्रुवारी २००८ रोजी नोंदणीकृत झाली असून, नोंदणी क्रमांक एन. जी. पी ५०४३ आहे.

भंडारा तालुका, जिल्हा भंडारा या स्थानिक क्षेत्रात हिंदुस्थान कम्पोझीट्स लि. गडेगाव भंडारा या अभियांत्रिकी उद्योगात क्लच फॅसिंग ॲण्ड ब्रेक लायनींगचे उत्पादन करणारा कारखाना आहे. तसेच भंडारा तालुका येथे दुसरा कोणताही क्लच फॅसिंग ॲण्ड ब्रेक लायनींग तयार करणारा उद्योग नाही. सदर उद्योगात दुसरी कोणतीही कामगार संघटना अस्तित्वात नाही.

या कार्यालयात अर्जदार कामगार युनियनद्वारे सादर करण्यात आलेला ठराव व संघटनेची घटना नियमावली तपासली असून ती योग्य आहे. अर्जदार युनियनच्या घटनेत नियम ३ नुसार अनुसूची "अ" मध्ये दर्शविलेल्या उद्योगात कामगार असलेल्या १८ वर्षे पूर्ण झालेल्या कामगारास संघटनेच्या घटनेच्या अटीवर सभासद होता येते.

मुंबई औद्योगिक संबंध अधिनियम, १९४६ च्या कलम १४ व मुंबई औद्योगिक संबंध अधिनियम, १९४७ च्या नियम १३ नुसार अर्जदार युनियनने रुपये १००० एवढी फी नोंदणीकरिता जमा केली आहे.

अर्जदार कामगार संघटनेने खालील प्रमाणे अभिलेख सहायक निबंधक यांना सादर केलेले आहे :——

(अ) ब्लॅक रिसीप्टचे पावती पुस्तकाची स्थळप्रत २००७.

(ब) सभासद असलेल्या सभासदांना प्रदान करण्यात आलेल्या पावती पुस्तकाची स्थळप्रत २००८, २००९.

(क) सभासद नोंदवही पुस्तिका, सभासद मासिक वर्गणी नोंदवही पुस्तिका.

(ख) रोख पुस्तिका, २००७ ते २००९.

(ग) संघटनेची नोटीस नोंदवही पुस्तिका.

(घ) सभेच्या इतिवृत्ताची नोंदवही.

(ड.) प्रमाणित लेखा परिक्षकाच्या अहवालाचे प्रमाणपत्र.

(च) व्हाऊचर (बील) नस्ती २००७ ते २००९.

संघटनेच्या दिनांक ११ फेब्रुवारी २००९ च्या अर्जाला अनुसरून युनियनच्या सभासदांची तपासणी करण्यासाठी या कार्यालयाचे पत्र क्रमांक श्रसअ/मुऔसंअ/हिकएयु/कार्या-३/११३२१, दिनांक ९ नोव्हेंबर २००९ अन्वये सहायक कामगार आयुक्त, भंडारा यांना क्लच फेसिंग ॲण्ड ब्रेक लायनींगचे उत्पादन करणारे इतर अभियांत्रिकी कारखाने असल्यास, त्यांची यादी मागविण्यात आली. सहायक कामगार आयुक्त, भंडारा यांनी

त्यांचे पत्र क्रमांक सकाआ/भं/श्रसंघ/१६७५, दिनांक २ डिसेंबर २००९ अन्वये उपरोक्त उत्पादन करणारे इतर कोणतेही कारखाने नसल्याचे कळविले आहे. तद्नंतर या कार्यालयाचे पत्र क्रमांक श्रसंअ/मुंऔसंअ/हिकएयु/कार्या-३/९२७, दिनांक ५ फेब्रुवारी २०१० अन्वये संघटनेचे सरचिटणीस, हिंदुस्थान कम्पोझीट्स युनियन, राजेगाव, भंडारा या संघटनेला संघटनेचा संपूर्ण अभिलेख तपासणीसाठी सात दिवसांचे आत सादर करण्यासाठी कळविण्यात आले. संघटनेने दिनांक १० फेब्रुवारी २०१० च्या पत्राद्वारे संघटनेचा अभिलेख कार्यालयास सादर केला.

व्यवस्थापनेस या कार्यालयाचे पत्र क्र. श्रसंअ/मुंऔसंअ/हिकएयु/नोंदणी/कार्या-३/१५१३, दिनांक ३ मार्च २०१० अन्वये कारखान्यातील स्थायी व अस्थायी कामगारांची यादी पाठविण्यास कळविण्यात आले. व्यवस्थापनेने कामगारांची यादी त्यांचे पत्र क्र. एचसीएलबी/अेएलसी/०९-१०, दिनांक १० एप्रिल २०१० अन्वये सादर केलेली यादी या कार्यालयास दिनांक १९ एप्रिल २०१० रोजी प्राप्त झाली.

तद्नंतर या कार्यालयाने युनियनच्या सभासद तपासणीसाठी व्यवस्थापनेस पत्र क्रमांक अेसीएल/बीआयआर/एचसीईयु/डेस्क-३/१०२९६, दिनांक ४ ऑक्टोबर २०१० अन्वये १५ दिवसांची नोटीस बजावून दिनांक २२ ऑक्टोबर २०१० रोजी सकाळी ११-०० ते सांय. ४-०० या वेळेत कारखान्याच्या परिसरात तपासणी घेण्यात येणार असल्याचे कळविण्यात आले. परंतु काही अपरिहार्य कारणास्तव दिनांक २२ ऑक्टोबर २०१० रोजी घेण्यात येणारा तपासणी कार्यक्रम तहकूब करण्यात आला. याबाबत व्यवस्थापनेस व संघटनेस पत्र दिनांक २२ ऑक्टोबर २०१० अन्वये फॅक्सद्वारे कळविण्यात आले.

या कार्यालयाचे पत्र क्रमांक अेसीएल/बीआयआर/एचसीईयु/डेक्स-३/११९९३, दिनांक २ डिसेंबर २०१० अन्वये सभासद तपासणीचा कार्यक्रम दिनांक ३० डिसेंबर २०१० रोजी सकाळी ११-०० ते ४-०० घेण्यासाठी पुन्हा १५ दिवसांची नोटीस देऊन कार्यक्रम निश्चित करण्यात आला. त्याप्रमाणे सहायक निबंधक यांनी दिनांक ३० डिसेंबर २०१० रोजी सकाळी ११-०० ते ४-०० यावेळेत हिंदुस्थान कम्पोझीट्स लि., प्लॉट नं. सी-१०/१, एम. आय. डी. सी. गडेगांव, जि. भंडारा येथे सभासदांची तपासणी करण्यात आली. कामगार संघटनेच्या सभासद पडताळणी संबंधिचा सिलबंद लिफाफा ज्यामध्ये आपले मत नोंदविलेले आहे, तो लिफाफा दोन साक्षीदारांच्या समक्ष दिनांक १ जानेवारी २०११ रोजी उघडण्यात आला.

माहे नोव्हेंबर, २००८ ते जानेवारी, २००९ या कालावधीत संघटनेचे सभासद असलेल्या व संघटनेने सादर केलेल्या यादीतील एकूण १०८ कामगारांपैकी ८५ कामगारांनी तपासणीचे वेळेस मतदान केले. व्यवस्थापनेने पदोन्नती दिलेले ४, सेवानिवृत्त २, नोकरी सोडून गेलेला १, मृत्यू झालेला १ कामगार आणि १५ कामगार अनुपस्थित होते.

संघटनेने सादर केलेल्या यादीतील १०८ कामगारांपैकी ८५ कामगारांनी म्हणजेच ७८.७० टक्के पेक्षा अधिक कामगारांनी हिंदुस्थान कम्पोझीट्स एम्पलॉईज युनियन, राजेगांव या संघटनेचे सभासद असल्याचे मत नोंदविलेले आहे.

आदेश

ज्याअर्थी तालुका भंडारा, जिल्हा भंडारा, महाराष्ट्र या स्थानिक क्षेत्रात मे. हिंदुस्थान कम्पोझीट्स लि., प्लॉट नं. सी-१०/१., एम. आय. डी. सी. औद्योगिक क्षेत्र, गडेगांव, जि. भंडारा या क्लच फेसिंग ॲण्ड ब्रेक लायनींग या अभियांत्रिकी उद्योगात असलेल्या एकूण १०८ कामगारांपैकी संघटनेचे सभासद असलेल्या १०८ कामगारांपैकी ८५ कामगार म्हणजे ७८.७० टक्के पेक्षा जास्त कामगार हिंदुस्थान कम्पोझीट्स एम्पलॉईज युनियन, राजेगांव या संघटनेचे सभासद आहेत.

त्याअर्थी, मी मुंबई औद्योगिक संबंध अधिनियम, १९४६ चे कलम १४ व मुंबई औद्योगिक संबंध नियम, १९४७ चे नियम २६ अंतर्गत प्रदान करण्यात आलेल्या अधिकारान्वये आज दिनांक १ जानेवारी २०११ रोजी हिंदुस्थान कम्पोझीट्स लि., गडेगांव या उद्योगात कार्यरत हिंदुस्थान कम्पोझीट्स एम्पलॉईज युनियन, राजेगांव या संघटनेला भंडारा तालुका, जिल्हा भंडारा (महाराष्ट्र राज्य) या स्थानिक क्षेत्राकरिता क्लच फेसिंग ॲण्ड ब्रेक लायनींग (अभियांत्रिकी) उद्योगासाठी प्रातिनिधीक कामगार संघटना म्हणून जाहीर करीत आहे.

नरेंद्रसिंह नागभिरे,
सहायक निबंधक,
मुंबई औद्योगिक संबंध अधिनियम, १९४६,
नागपूर.

नागपूर,
दिनांक १ जानेवारी २०११.

औद्योगिक न्यायालय, महाराष्ट्र, मुंबई

वाचा.—श्री. जी. जी. भालचंद्र, न्यायाधीश, ३ रे कामगार न्यायालय, ठाणे यांचा दिनांक २९ जानेवारी २०११ रोजीचा अर्ज.

रजा मंजुरी आदेश

क्रमांक २१२.—श्री. जी. जी. भालचंद्र, न्यायाधीश, ३ रे कामगार न्यायालय, ठाणे यांना त्यांच्या दिनांक २९ जानेवारी २०११ रोजीच्या अर्जासंदर्भात कळविण्यात येते की, त्यांची दिनांक २५ जानेवारी २०११ ते २७ जानेवारी २०११ पर्यंत एकूण ३ दिवसांची अर्जित रजा, मंजूर करण्यात आली आहे.

श्री. जी. जी. भालचंद्र, हे रजेवर गेले नसते तर त्यांची न्यायाधीश, ३ रे कामगार न्यायालय, ठाणे या पदावरील स्थानापन्न नियुक्ती पुढे चालू राहिली असती.

रजेचा उपरोक्त कालावधी संपल्यावर श्री. जी. जी. भालचंद्र, न्यायाधीश, ३ रे कामगार न्यायालय, ठाणे या पदावर स्थानापन्न होतील.

आदेशावरून,

के. एन. धर्माधिकारी,
प्रभारी प्रबंधक,
औद्योगिक न्यायालय, महाराष्ट्र, मुंबई.

मुंबई,
दिनांक ३ फेब्रुवारी २०११.

औद्योगिक न्यायालय, महाराष्ट्र, मुंबई

वाचा.—श्री. ए. ए. सईद, न्यायाधीश, ४ थे कामगार न्यायालय, ठाणे यांचा दिनांक २७ जानेवारी २०११ रोजीचा अर्ज.

रजा मंजुरी आदेश

क्रमांक २१३.—श्री. ए. ए. सईद, न्यायाधीश, ४ थे कामगार न्यायालय, ठाणे यांना त्यांच्या दिनांक २७ जानेवारी २०११ रोजीच्या अर्जासंदर्भात कळविण्यात येते की, त्यांची दिनांक ७ फेब्रुवारी २०११ ते ९ फेब्रुवारी २०११ पर्यंत एकूण ३ दिवसांची अर्जित रजा, रजेच्या मागे दिनांक ६ फेब्रुवारी २०११ रोजीची सुट्टी जोडून मुख्यालय सोडण्याच्या परवानगीसह मंजूर करण्यात आली आहे.

श्री. ए. ए. सईद, हे रजेवर गेले नसते तर त्यांची न्यायाधीश, ४ थे कामगार न्यायालय ठाणे या पदावरील स्थानापन्न नियुक्ती पुढे चालू राहिली असती.

रजेचा उपरोक्त कालावधी संपल्यावर श्री. ए. ए. सईद, न्यायाधीश, ४ थे कामगार न्यायालय, ठाणे या पदावर स्थानापन्न होतील.

आदेशावरून,

के. एन. धर्माधिकारी,
प्रभारी प्रबंधक,
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मुंबई,
दिनांक ३ फेब्रुवारी २०११.

औद्योगिक न्यायालय, महाराष्ट्र, मुंबई

वाचा.—श्री. जी. जी. हुलसुरे, न्यायाधीश, ३ रे कामगार न्यायालय, नागपूर यांचा दिनांक १३ जानेवारी २०११ रोजीचा अर्ज.

रजा मंजुरी आदेश

क्रमांक २१४.—श्री. जी. जी. हुलसुरे, न्यायाधीश, ३ रे कामगार न्यायालय, नागपूर यांना त्यांच्या दिनांक १३ जानेवारी २०११ रोजीच्या अर्जासंदर्भात कळविण्यात येते की, त्यांची दिनांक १० जानेवारी २०११ ते १२ जानेवारी २०११ पर्यंत एकूण ३ दिवसांची परिवर्तित रजा, रजेच्या मागे दिनांक ८ जानेवारी २०११ व ९ जानेवारी २०११ हे सुट्ट्यांचे दिवस जोडून मंजूर करण्यात आली आहे.

श्री. जी. जी. हुलसुरे, हे रजेवर गेले नसते तर त्यांची न्यायाधीश, ३ रे कामगार न्यायालय, नागपूर या पदावरील स्थानापन्न नियुक्ती पुढे चालू राहिली असती.

रजेचा उपरोक्त कालावधी संपल्यावर श्री. जी. जी. हुलसुरे, न्यायाधीश, ३ रे कामगार न्यायालय, नागपूर या पदावर स्थानापन्न होतील.

आदेशावरून,

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प्रभारी प्रबंधक,
औद्योगिक न्यायालय, महाराष्ट्र, मुंबई.

मुंबई,
दिनांक ३ फेब्रुवारी २०११.

औद्योगिक न्यायालय, महाराष्ट्र, मुंबई

वाचा.— श्री. एम. पी. वैद्य, सहायक प्रबंधक, औद्योगिक न्यायालय, मुंबई यांचा दिनांक २८ जानेवारी २०११ रोजीचा अर्ज.

रजा मंजुरी आदेश

क्रमांक २१५.—श्री. एम. पी. वैद्य, सहायक प्रबंधक, औद्योगिक न्यायालय, मुंबई यांना त्यांच्या दिनांक २८ जानेवारी २०११ रोजीच्या अर्जासंदर्भात कळविण्यात येते की, त्यांची दिनांक २९ जानेवारी २०११ ते ३१ जानेवारी २०११ पर्यंत एकूण ३ दिवसांची अर्जित रजा,मुख्यालय सोडण्याच्या परवानगीसह मंजूर करण्यात आली आहे.

श्री. एम. पी. वैद्य, हे रजेवर गेले नसते तर त्यांची सहायक प्रबंधक, औद्योगिक न्यायालय, मुंबई या पदावरील स्थानापन्न नियुक्ती पुढे चालू राहिली असती.

रजेचा उपरोक्त कालावधी संपल्यावर श्री. एम. पी. वैद्य, सहायक प्रबंधक, औद्योगिक न्यायालय, मुंबई या पदावर स्थानापन्न होतील.

आदेशावरून,

के. एन. धर्माधिकारी,
प्रभारी प्रबंधक,
औद्योगिक न्यायालय, महाराष्ट्र, मुंबई.

मुंबई,
दिनांक ३ फेब्रुवारी २०११.

औद्योगिक न्यायालय, महाराष्ट्र, मुंबई

वाचा.—श्री. ए. एस. गट्टाणी, न्यायाधीश, कामगार न्यायालय, नाशिक यांचा दिनांक १४ जानेवारी २०११ रोजीचा अर्ज.

रजा मंजुरी आदेश

क्रमांक २१७.—श्री. ए. एस. गट्टाणी, न्यायाधीश, कामगार न्यायालय, नाशिक यांना त्यांच्या दिनांक १४ जानेवारी २०११ रोजीच्या अर्जासंदर्भात कळविण्यात येते की, त्यांची दिनांक २४ जानेवारी २०११ ते ५ फेब्रुवारी २०११ पर्यंत एकूण १३ दिवसांची अर्जित रजा, रजेच्या मागे दिनांक २२ जानेवारी २०११ व २३ जानेवारी २०११ व रजेच्या पुढे दिनांक ६ फेब्रुवारी २०११ हे सुट्ट्यांचे दिवस जोडून मुख्यालय सोडण्याच्या परवानगीसह मंजूर करण्यात आली आहे.

श्री. ए. एस. गट्टाणी, हे रजेवर गेले नसते तर त्यांची न्यायाधीश, कामगार न्यायालय, नाशिक या पदावरील स्थानापन्न नियुक्ती पुढे चालू राहिली असती.

रजेचा उपरोक्त कालावधी संपल्यावर श्री. ए. एस. गट्टाणी, हे न्यायाधीश, कामगार न्यायालय, नाशिक या पदावर स्थानापन्न होतील.

आदेशावरून,

के. एन. धर्माधिकारी,
प्रभारी प्रबंधक,
औद्योगिक न्यायालय, महाराष्ट्र, मुंबई.

मुंबई,
दिनांक ३ फेब्रुवारी २०११.

औद्योगिक न्यायालय, महाराष्ट्र, मुंबई

वाचा.—श्री. सी. आर. पाटील, सहायक प्रबंधक, औद्योगिक न्यायालय, सोलापूर यांचा दिनांक २२ डिसेंबर २०१० रोजीचा अर्ज.

रजा मंजुरी आदेश

क्रमांक २१९.—श्री. सी. आर. पाटील, सहायक प्रबंधक, औद्योगिक न्यायालय, सोलापूर यांना त्यांच्या दिनांक २२ डिसेंबर २०१० रोजीच्या अर्जासंदर्भात कळविण्यात येते की, त्यांची दिनांक २७ डिसेंबर २०१० ते ३१ डिसेंबर २०१० पर्यंत एकूण ५ दिवसांची अर्जित रजा, रजेच्या मागे दिनांक २५ डिसेंबर २०१० व २६ डिसेंबर २०१० हे सुट्टीचे दिवस जोडून मुख्यालय सोडण्याच्या परवानगीसह मंजूर करण्यात येत आहे.

श्री. सी. आर. पाटील, हे रजेवर गेले नसते तर त्यांची सहायक प्रबंधक, औद्योगिक न्यायालय, सोलापूर या पदावरील स्थानापन्न नियुक्ती पुढे चालू राहिली असती.

रजेचा उपरोक्त कालावधी संपल्यावर श्री. सी. आर. पाटील, सहायक प्रबंधक, औद्योगिक न्यायालय, सोलापूर या पदावर स्थानापन्न होतील.

आदेशावरून,

के. एन. धर्माधिकारी,
प्रभारी प्रबंधक,
औद्योगिक न्यायालय, महाराष्ट्र, मुंबई.

मुंबई,
दिनांक ३ फेब्रुवारी २०११.

औद्योगिक न्यायालय, महाराष्ट्र, मुंबई

वाचा.—श्री. व्ही. व्ही. विद्वांस, न्यायाधीश, १ ले कामगार न्यायालय, अहमदनगर, यांचा दिनांक १२ जानेवारी २०११ रोजीचा अर्ज.

रजा मंजुरी आदेश

क्रमांक २२०.—श्री. व्ही. व्ही. विद्वांस, न्यायाधीश, १ ले कामगार न्यायालय, अहमदनगर यांना त्यांच्या दिनांक १२ जानेवारी २०११ रोजीच्या अर्जासंदर्भात कळविण्यात येते की, त्यांची दिनांक ८ जानेवारी २०११ ते ११ जानेवारी २०११ पर्यंत एकूण ४ दिवसांची वाढीव अर्जित रजा मंजूर करण्यात आली आहे.

श्री. व्ही. व्ही. विद्वांस, हे रजेवर गेले नसते तर त्यांची न्यायाधीश, १ ले कामगार न्यायालय, अहमदनगर या पदावरील स्थानापन्न नियुक्ती पुढे चालू राहिली असती.

रजेचा उपरोक्त कालावधी संपल्यावर श्री. व्ही. व्ही. विद्वांस, हे न्यायाधीश, १ ले कामगार न्यायालय, अहमदनगर या पदावर स्थानापन्न होतील.

आदेशावरून,

का. ना. धर्माधिकारी,
प्रभारी प्रबंधक,
औद्योगिक न्यायालय, महाराष्ट्र, मुंबई.

मुंबई,
दिनांक ३ फेब्रुवारी २०११.

औद्योगिक न्यायालय, महाराष्ट्र, मुंबई

वाचा.—श्री. एम. एन. बोंद्रे, न्यायाधीश, कामगार न्यायालय, जळगाव यांचा दिनांक १८ जानेवारी २०११ रोजीचा अर्ज.

रजा मंजुरी आदेश

क्रमांक २२१.—श्री. एम. एन. बोंद्रे, न्यायाधीश, कामगार न्यायालय, जळगाव यांना त्यांच्या दिनांक १८ जानेवारी २०११ रोजीच्या अर्जासंदर्भात कळविण्यात येते की, त्यांची दिनांक १८ जानेवारी २०११ ते २१ जानेवारी २०११ पर्यंत एकूण ४ दिवसांची अर्जित रजा, रजेच्या पुढे दिनांक २२ जानेवारी २०११ व २३ जानेवारी २०११ हे सुट्ट्यांचे दिवस जोडून मुख्यालय सोडण्याच्या परवानगीसह मंजूर करण्यात आली आहे.

श्री. एम. एन. बोंद्रे, हे रजेवर गेले नसते तर त्यांची न्यायाधीश, कामगार न्यायालय, जळगाव या पदावरील स्थानापन्न नियुक्ती पुढे चालू राहिली असती.

रजेचा उपरोक्त कालावधी संपल्यावर श्री. एम. एन. बोंद्रे, हे न्यायाधीश, कामगार न्यायालय, जळगाव या पदावर स्थानापन्न होतील.

आदेशावरून,

के. एन. धर्माधिकारी,
प्रभारी प्रबंधक,
औद्योगिक न्यायालय, महाराष्ट्र, मुंबई.

मुंबई,
दिनांक ३ फेब्रुवारी २०११.

औद्योगिक न्यायालय, महाराष्ट्र, मुंबई

वाचा.—श्री. आर. बी. चोरघे, न्यायाधीश, २ रे कामगार न्यायालय, नागपूर, यांचा दिनांक ११ जानेवारी २०११ रोजीचा अर्ज.

रजा मंजुरी आदेश

क्रमांक २२२.—श्री. आर. बी. चोरघे, न्यायाधीश, २ रे कामगार न्यायालय, नागपूर यांना त्यांच्या दिनांक ११ जानेवारी २०११ रोजीच्या अर्जासंदर्भात कळविण्यात येते की, त्यांची दिनांक १७ जानेवारी २०११ ते २१ जानेवारी २०११ पर्यंत एकूण ५ दिवसांची अर्जित रजा, रजेच्या मागे दिनांक १६ जानेवारी २०११ व रजेच्या पुढे दिनांक २२ जानेवारी २०११ व २३ जानेवारी २०११ हे सुट्ट्यांचे दिवस जोडून मुख्यालय सोडण्याच्या परवानगीस मंजूर करण्यात येत आहे.

श्री. आर. बी. चोरघे, हे रजेवर गेले नसते तर त्यांची न्यायाधीश, २ रे कामगार न्यायालय, नागपूर या पदावरील स्थानापन्न नियुक्ती पुढे चालू राहिली असती.

रजेचा उपरोक्त कालावधी संपल्यावर श्री. आर. बी. चोरघे, हे न्यायाधीश, २ रे कामगार न्यायालय, नागपूर या पदावर स्थानापन्न होतील.

आदेशावरून,

के. एन. धर्माधिकारी,
प्रबंधक,
औद्योगिक न्यायालय, महाराष्ट्र, मुंबई.

मुंबई,
दिनांक ३ फेब्रुवारी २०११.

औद्योगिक न्यायालय, महाराष्ट्र, मुंबई

वाचा.—श्री. पी. पी. जाधव, न्यायाधीश, कामगार न्यायालय, रत्नागिरी यांचा दिनांक २९ जानेवारी २०११ रोजीचा अर्ज.

रजा मंजुरी आदेश

क्रमांक २३१.—श्री. पी. पी. जाधव, न्यायाधीश, कामगार न्यायालय, रत्नागिरी यांना त्यांच्या दिनांक २९ जानेवारी २०११ रोजीच्या अर्जासंदर्भात कळविण्यात येते की, त्यांची दिनांक ८ फेब्रुवारी २०११ ते ११ फेब्रुवारी २०११ पर्यंत एकूण ४ दिवसांची अर्जित रजा, रजेच्या पुढे दिनांक १२ फेब्रुवारी २०११ व १३ फेब्रुवारी २०११ हे सुट्ट्यांचे दिवस जोडून मुख्यालय सोडण्याच्या परवानगीस मंजूर करण्यात आली आहे.

श्री. पी. पी. जाधव, हे रजेवर गेले नसते तर त्यांची न्यायाधीश, कामगार न्यायालय, रत्नागिरी या पदावरील स्थानापन्न नियुक्ती पूढे चालू राहिली असती.

रजेचा उपरोक्त कालावधी संपल्यावर श्री. पी. पी. जाधव, हे न्यायाधीश, कामगार न्यायालय, रत्नागिरी या पदावर स्थानापन्न होतील.

आदेशावरून,

के. एन. धर्माधिकारी,
प्रभारी प्रबंधक,
औद्योगिक न्यायालय, महाराष्ट्र, मुंबई.

मुंबई,
दिनांक ५ फेब्रुवारी २०११.

IN THE INDUSTRIAL COURT, MAHARASHTRA, AT MUMBAI

BEFORE SHRI S. K. SALGAONKAR, MEMBER, INDUSTRIAL COURT, MAHARASHTRA, AT MUMBAI

COMPLAINT (ULP) No. 691 OF 2002.— Ankush Toraskar, Yeshashri Co-op. Housing Society, Plot No. 187, Room No. 7, Gorai 2, Borivali (W.), Mumbai 400 092,—*Complainant*.— *versus*— (1) Godrej and Boyce Mfg. Co. Ltd., Pirojshanagar, Vikhroli, Mumbai 400 079, (2) The Executive Director, Corporate Personnel and Administration, Godrej and Boyce Mfg. Co. Ltd., Pirojshanagar, Vikhroli, Mumbai 400 079, (3) Godrej Appliances Ltd., Pirojshanagar, Vikhroli, Mumbai 400 079, (4) Senior Manager-HRD and IR, Godrej Appliance Ltd., Pirojshanagar, Vikhroli, Mumbai 400 079, (5) Senior Manager, Appliances Service, Godrej Appliances Ltd., Pirojshanagar, Vikhroli, Mumbai 400 079.—*Respondents*.

In the matter of complaint of unfair labour practices under section 28(1) read with Items 3, 7, 9 and 10 of Schedule IV of the MRTU and PULP Act, 1971.

CORAM.— Shri S. K. Salgaonkar, Member.

Appearances.— Shri Shivdasani, Advocate for the complainant.
Smt. Shilpa Bhatia, Advocate for Respondents.

Judgment

(Directed and declared in open Court on dated 21st January 2011)

1. The Complaint (ULP) matter below Exh. U-1 so filed by the complainant, as against the Respondent Nos. 1 to 5 as named in the caption thereof under section 28(1) for unfair labour practices as per Items 3, 7, 9 and 19 of Schedule IV of the MRTU and PULP Act, 1971 (hereinafter referred to as The Act, 1971), with this Court on 3rd July 2002.

2. The contentions so pleaded by the complainant below Exh. U-1 the main complaint, that could be summarized in brief as under :—

That, the complainant at present an 'employee' with the Respondent No. 3 was appointed on 1st February 1996 as a 'Truner' in the Axle Transmission Department with the Respondent No. 1 Annexure 'A' is the appointment letter dated 6th February 1996.

3. According to the complainant further, he was issued with the letter dated 9th April 2001 informing thereby that, on and from 9th April 2001 he will be loaned to the Respondent No. 3 ; whereby he was required to work with the Respondent No. 3 and doing the work of 'Machine Operator'.

4. By way of amendment, *vide* Para 3(bb) below Exh. U-1 it is stated by the complainant further that, as he did the course in the trade of Machinist from Industrial Training and he is having knowledge and is capable of working on Lathe Machines as mentioned therein.

5. While doing so *i.e.* manufacturing the parts of a Machinist is required to use Measuring Instruments to maintain the required accuracy.

6. Though he did a trade of a machinist, he can do the job of a Turner.

7. According to the complainant, prior to he was directed to work on Boring machine, he was working on Lathe Machine till April 2001 and he was doing the same till his transfer order dated 26th June 2002. Therefore, this said transfer order, he was directed to report at the Service Centre at Bhopal (Annexure 'B' collectively).

8. According to this complainant ; he does not have any acknowledge whatsoever of servicing any of the products of the Respondent Nos. 1 and 3 ; not he possess any qualifications for doing that job with it.

9. It is the case of the complainant further that, the Respondent No. 3 is the company registered separately under the Companies Act, 1956 and there are legal entity. But the Respondent No. 3 came into existence in the year 1993 and it has incolved in the manufacturing and servicing of the Refrigerators, Washing Machines and Air conditioners.

10. According to this complainant ; the Respondent No. 5 is the Personnel Manager-Appliances Manufacturing and has committed an unfair labour practice by forcing him to accept VRS and further threatening him ; but he did no do so, he would be transferrd.

11. The very settlements have been entered into between the Respondent Nos. 1 and 3 alongwith the recognized-trade-union by name ; Godrej-Boyce Shramik Sangh. Alongwith complainant, other workmen with him were also the members of the Association of Engineering Workers, with which no settlements have arrived at. Hence, Complaint (ULP) No. 402/2000, 414/2002 and 418/2001 have been filed by these workmen by challenging those agreements before the Industrial Courts at Mumbai.

12. Vide notice dated 5th June 2002 ; the Respondent Nos. 1 and 3 introduced a VRS for their employees though the complainant was not interested therein ; he did not opt for the same. He was called by the Respondent No. 5 stating that, he was not eligible for VRS, the complainant should sign a separate agreement on a stamp paper, wherein he would be given some limpsum amount in lieu of early retirement alongwith Mr. Marathe and Mr. Kamlesh Panchal from the Compressor Machine Shop. Annexure 'C' collectively are the copies of the same calculations. As he was not introduced in accepting the said scheme ; he was not prepared to sign the such agreement. Thereafter, the Respondent Nos. 4 and 5 threatening the complainant that. If he did not agree to sign the said ; he would be transferred to Bhopal. On this count ; it is his say as mentioned therein that, he was having old parents to look after and his mother has undergone a by-pass surgery and her treatment still continues. The treatment of his mother would suffer, if he is transferred to any other place outside Mumbai as mentioned therein.

13. By way of amendment ; *vide* Para 3(gg) has been added ; therein stating that, this Court by passing ad-interim order dated 3rd July 2002 has stayed the very transfer order till filling of the reply by the respondents. And by passing order dated 29th April 2003 the respondents were directed instead his transfer to Bhopal, a suitable place be given to him. On that count ; according to this complainant ; the respondents have issued another transfer order dated 28th November 2003 thereby transferring his services to its Service Centre at Pune. According to him ; at the service centre, the products manufactured by the respondent Nos. 1 and 3 are repaired and serviced. But the complainant has no experience ; not any knowledge to do that work at the service centre (Annexure 'D').

14. The Respondent Nos. 1 and 3 *vide* their notice dated 1st July 2002 have introduced another VRS by offering the some more amount than its earlier, for which the complainant was not agreed to the same. Therefore, the action on part of these respondents against him ; the respondents have committed an unfair labour practice as per Item 10 of Schedule IV of the Act, 1971. Simillarly, by transferring him out of Mumbai ; the respondents have issued that transfer order is *malafide*, which attracted Item 7 of Schedule IV of the Act, 1971 and thereby since it is in breach of contract of employment, it attracted commission of unfair labour practice as per Item 9 of Schedule IV of The Act, 1971. And the very transfer order dated 26th June 2002 is bad-in-law and thereby the respondents have indugled into an unfair labour practice on the grounds so mentioned therein that, the complainant was loaded with work on a day to day basis till the date. He was not provided with accommodation facility at Bhopal plus 35 temporary workmen are being recruited by the Respondent No. 3 in its Plant No. 7 and is still going on.

15. Therefore, it is the case of the complainant by way of amendment that, the complainant was issued with the letter dated 9th April 2001 by the Respondent No. 1 informing him that, he has been loaned by the Respondent Nos. 1 to 3 with effect from 9th April 2001. He protested the same and with the contention that, thereby the respondents have indugled into an unfair labour practice as the Respondent No. 1 did issue transfer order dated 8th October 2001 transferring his services by the Respondent No. 1 to the Respondent No. 3 at Vikhroli plant. Again he was retransfferred to Respondent No. 1 at Vikhroli plant. He was not retransferred by the Respondent No. 3 to Respondent No. 1 has been done to the other workmen and thereby it is case that, other workmen as mentioned *vide* added Para 3(k) got done it by the management.

16. In the month of August 2002 ; the Respondent No. 1 has appointed 4 persons as mentioned therein to work as Machine Operator in Jig Boring Machine in Plant No. 7. One Mr. Dhake has been appointed to work as a Machinist and has been working on Milling Machine and thereby the respondent-company has deliberately not alloted the work, with which the complainant was suited and issued him transfer order to Bhopal for extraneous reasons. According to the complainant further that, thereafter another transfer order dated 28th November 2003 was issued to the him, transferring his services to Pune. It is an afterthought to justify the *malafide* action on part of the respondents it has done ; whereby as though he was not qualified ; nor he does possess any experience/skill ; he was required to do the job of pre-delivery inspection of the appliances. But, in fact, it was required to be done by the inspector of Quality Control Department and asking him is nothing but would amount to changing his nature of work. The said work is below the dignity of the complainant is a skilled worker and that work so allowed that of a helper. Like complainant, others have also be transferred so mentioned *vide* Para (n) (amended one). One Mr. S. B. Parab, whose services were transfeered to Lucknow came under the pressure of the respondent and took VRS ; thereby the impugned transfer order be treated and declared as *malafide*, unfair and illegal. Therefore, the company in spite of having vacancy to the post of amchinist which work the complainant is trained and posses skills and qualifications did not heed to the request of the

complainant has not been ansorbed him at Vikhroli plant. Accordingly, the complainant reported for duty at Pune on 18th November 2004. But he was alloted with the job at Wagoli which is about 15 kms. away from the service centre ; whereby the dynamic logistics has been functioning. Wherein the complainant is also required to carry challans and other documents to be handed over to the supervisors of Dynamic Ligistics namely Sachin Khandve and Atul Galande. The complainant was required to sit idle completely on 52 days and rest of 31 days he was working.

17. Therefore, it is lastly prayed by the complainant that, by allowing this complaint ; it be held and declared that, the respondents have engaged into unfair labour practice as per Items 3, 7, 9 and 10 of Schedule IV of the Act, 1971. The respondents be further directed to withdraw the transfer order dated 26th June 2002 and 28th September 2003 issued to him alongwith cost of the matter be allowed in his favour.

18. It seems from the record below Exh. U-2 that, there is an interim relief application filled by the complainant under Section 30(2) of the Act, 1971 supported with his affidavit below Exh. U-3 dated 3rd July 2002. The complainant has filed on record the 4 documents with list below Exh. U-5 in the Xerox-form including the booklate of memorundum of understanding dated 1st November 1999. It seems from the record that, below Exh. C-3 there is an affidavit-in-reply filed on behalf of the respondent Nos. 3, 4 and 5 ; respectively. Then, below Exh. U-8 there is an affidavit of rejoinder of the complainant. Then, below Exh. C-5 there is an affidavit-in-reply to the said rejoinder filed on behalf of the Respondent Nos. 3, to 5 on record. As there has been pursis to the effect below Exh. C-6 filed on record on 20th December 2003 stating that, It is affidavit-in-reply to the interim-relief application be treated as the 'written-statement' in the present matter. Hence, the contentions so made behalf of these respondents below Exh. C-3 dated 1st August 2002 are being treated as a contentions of the respondents through its 'written statement' and taken down in short are as under :—

That, the contentions, averments alongwith the allegations so levelled by the complainant, as against it are denied to be true.

19. The very complaint is not maintainable on the following grounds ; as the complaint does not disclose any cause of action amounting to unfair labour practice as per Items 3, 7, 9 and 10 of Schedule IV of the Act, 1971. Hence, the complainant is not entitled to any relief as prayed by him.

20. The very complainant had challenged their transfer order dated 26th June 2002 transferring him from the Mumbai Branch to the Company's Branch at Bhopal. It was necessitated on account of exigencies of business needs and requirements, is in accordance with the complainant's contract of employment. Hence, it is denied that, it has indulged into an unfair labour practice within the meaning of item 3 of Schedule IV of the Act, 1971.

21. It is the case of the respondents further that, the very transfer from Mumbai to Bhopal is without prejudic to his existing empluments and grade. The nature of duties are not materially different. Hence, there has been no change in the service-conditions of the complainant. Thereby the complainant has failed to make out a case of *malafide* of the said order of transfer.

22. By virtue of the said transfer order dated 26th June 2002 he was required to work at Bhopal with effect from 8th July 2002 ; but the complainant has failed to comply with the lawful order of the said transfer, Hence, he is not entitled to any relief.

23. In fact, according to these respondents ; the Respondent No. 1 is an Engineering Company involved in the business of manufacturing of Office Equipments, locks, Prima Typewriters, Precision Equipments, Material Hendling Equipments, Tool Room and Machine Tools. The Respondent No. 3 is an Engineering Company engaged in the manufacture of Refrigerators, Washing Machine and Airconditioners and having its Registered Office at Vikhroli, Mumbai. And having Manufacturing Unit at Shiwal, near Pune, Mohali (Punjab) and Shilvassa.

24. The Respondent No. 3 company got set up in the year 1992. All the employees employed in the said refrigeration Division of the Respondent No.1 company were transferred to the respondent-company under the provisions of section 25-FF of the Industrial Disputes Act, 1947 (thereinafter referred to as the ID Act, 1947) with full protection of their existing service-conditions. Accordingly, on and from 25th February 1993 the permanent workmen of the Refrigeration Division of the Respondent No. 1 company got automatically stood transfrred to the Respondent No. 3 company. The Respondent No. 3 is having 17 upcountry branches as mentioned therein.

25. According to these respondents ; there is a recognized-trade-union functioning with it as Godrej and Boyce Shramik Union got registered under Registration No. 16 of 1997, having majority of its permanent workmen as its members entered into long term wage settlements with the management from time to time, governing also the service-conditions of the member-employees.

26. Its financial performance as a whole had been deteriorating and the losses of the company has been increased right from the year 1999 onwards and due to cut-throat competition in the market, facing from Multinational-Companies ; such as Whirlpool, Samsung, LG Electronics and Electrolux and from indian companies like Videocon, Voltas, BPL etc. The share market has also gone down from 20 Percent to 24 Percent in the year ending 1999-2000. It has having piling up of stocks of company's products with the dealers as on September, 1999 on account of the sluggish market conditions. On 30th September 1999 its outstading amounts due and payable to the respondent-company were more 100 crores ; thereby the company has been operating losses on account of its manufacturing activities as shown therein.

27. During the year 2002, the respondent-company had Introduced a VRS, which was applicable to its permanent workmen with the said terms and conditions as mentioned therein. Few permanent workmen opted for the same.

28. There was a necessity to modify the terms and conditions of its existing settlement dated 1st December 1996. Hence, after holding discussions with the representatives of the said recognized union ; it has entered into a settlement dated 1st November 1999 modifying its terms and conditions of settlement dated 1st December 1996 and enhanced benefits were provided to its employees it the time of signing of the said settlement dated 1st November 1999.

29. It is admitted that, the complainant has entered into an employment with the Respondent No. 1 company with effect from 1st December 1996 as a Turner through his appointment letter dated 6th December 1996 issued to him and as per clause 4 and 5 of the said appointment letter, his services would be transferred out of Mumbai ; thereby he was called to work at any of the company's establishments in and outside Mumbai, without any extra remuneration or compensation.

30. As per the 'tripartite-agreement' dated 26th December 2000 have entered into with the Godrej and Boyce Shramik Sangh ; the services of the complainant were loaned to the Respondent No. 3 with effect from 9th April 2001. Agenda on 10th Septmeber 2001, another tripartite-agreement was entered into amongst them ; wherein the employeees could be legally transferred to the Respondent No. 3. Accordingly, *vide* its letter dated 8th October 2001 ; the complainant was informed about his transfer to the Respondent No. 3 as per the terms of the said agreement. The duties of the complainant while he worked in Plant No. 16 of the Respondent No. 1 are as under :—

The complainant was carrying out the duties as Machine Operator at Plant No. 2 of the Respondent No. 3 company's Vikhroli establishment and his educational qualifications are SSC, HSC, ITI (Machinist) and National Apprentice Certificate (NAC) ; wherein the complainant was required to work the following jobs as mentioned therein mainly loading and unloading of compressor components on the transfer lines ; visually checking and cleaning of the components ; visually checking the finished piece for ovrall cleanliness, defects, etc, before final machining.

31. In the month of March, 2002 ; the Regional Sales Manager of the Respondent No. 3 had discussions on matters with the Respondent No. 3 and accordingly the Respondent No. 3 was required to improve the quality of services to be rendered to its customers that would ensure the company's dealers and/or stockists are provided with products free from dents and/or damages and are clean ; as a feed back on pre-delivery inspection to be carried out at the branches relating to handling of appliances by the complainant would enable the Respondent No. 3 to carry out improvements while selling its products. The complainant upon his transfer to Bhopal Branch, he was required to carry out the following activities as mentioned therein.

32. As per his experience of having worked as a 'Machine Operator' with its Vikhroli Branch, it would enable the complainant to carry out his duties at the Bhopal-Branch.

33. Considering his overall nature of employment ; the nature of business run by the company and a large number of offices located all over the country, transfer is an incident of service and his job is also transferable post.

34. On 1st November 1999, the respondent-company had entered into a settlement dated 1st November 1999 with the Godrej and Boyce Shramik Sangh *vide* Clause 2.1.4 of the said settlementt ; plus as per clause 13.2.1 of the said settlement that, has been so mentioned therein. It is further stated that, Plant No. 16 at Mumbai of the Respondent No. 1 Company ; wherein the

respondents have unable to utilize several employees on account of non availability of work, following employees were transferred to various locations in the country and they have reported at their repective places of postings. They are 4 in number and other employees are mentioned who has 3 in number were transferred to various locations. The aforesaid 3 employees have been challenged their transfer order by filing complaint before the Industrial Court at Mumbai. The said Interim-relief order dated 3rd November 1999 was challenged by the said employees by filing copy of the Writ Petition No. 2938/1999 with the Hon'ble Bombay High Court and it was disposed off by an order dated 13th December 1999 directing the Industrial Court to dispose of the complains within three months. And later on, the Industrial Court has *vide* its order dated 30th March 2000 dismissed those complaints. Again, that order was challenged by the employees through Writ Petition, which was dismissed by the Hon'ble Bombay High Court *vide* its order dated 29th August 2000. On the basis of the side order, those 3 employees have been relocated on the following establishments so mentioned therein.

35. The transfer orders requiring them to report for work at the a country branches with effect from 8th July 2002. Accordingly, they have reported with the respective branches ; 3 in number ; thereby it is strongly denied by the respondents that, they have indugled into unfair labour practice as per Items 7, 9 and 10 of Schedule IV of the Act, 1971. It is also denied that, the very transfer order dated 26th June 2002 is bad-in-law and it amounted to unfair labour practice on any ground at all.

36. However, it is the case of the respondents that, the complainant is not required to have any knowledge of servicing of products manufactured by the Respondent No. 3 ; as he would be required upon his transfer to Bhopal to carry out pre-delivery inspection job, which he is capable of performing.

37. The complainant is a party to the Complaint (ULP) No. 433/2001 challenging the loaning of the services of the complainant from Respondent No. 1 to Respondent No. 3 and Complaint (ULP) No. 414/2000 challenging the settlement between the company and the said recognized union do not mean that, the complainant could not be transferred. But the following 3 persons, who were not party to either complaints as mentioned above have been transferred on account of company's needs and requirements.

38. Therefore, it is lastly prayed that, no interim-relief so prayed by the complainant be granted in his favour, nor any relief be grnated accordingly.

39. Below Exh. C-7 ; 'additional-written-statment' got filed on behalf of the respondents on 27th March 2008 ; whereby reiterated its earlier contentions ; wherein it is mentioned that, though the complainant was initially transferred to its establishment at Bhopal, but pursuant to the interim-relief order so passed by this Court, his services were transferred of its service centre at Pune *vide* letter dated 28th November 2003. Though, he was initially working as a Turner, he was required to carry out other suitable jobs of the same grade ; as per the terms of contract of his services. As per its tripartite settlement dated 26th December 2000 between the management of the Respondent No. 1, Respondent No. 3 and the Godrej Boyce Shramik Sangh, the said loaning of services was in the Interest of the complainant, else he would have become suprplus to the requirements of the respondent-company and the protest made by him is totally illegal and unjustified. With regard to its transfer-order dated 8th October 2001 issued by the Respondent No. 1 transferring his services to the Respondent No. 3, it is in consonance with the tripartite settlement dated 10th September 2001 entered into accordingly.

40. It is the case of these respondents that, its plant No. 7 is a totally district and separate plant from that of Plant No. 16. But at the instance of this Court to transfer the complainant to a nearly location, the complainant was transferred to Pune where there was a requirement and he accordingly reported at Pune and continues to carry out his duties therein.

41. In the very letter dated 28th November 2003 transferring him to Pune ; it is stated that, the complainant has already informed that his existing service conditions and grade would remain unchanged.

42. It is denied that, after reporting for work at Pune service centre located at Sadhu Vaswani Chowk, the complainant was not alloted any duties for three days. On this count ; the case of the complainant even if the complainant was required to visit Dynamic Logistics, the said firm has been storing the respondent's products, which are delivered to dealers/customers of the respondents. In respect of his leave facilities ; it is in terms of the settlement dated 7th December 2007 signed between the Respondent No. 1 company and the recognized-union, the said Combined

Causal Leave/Sick Leave with wages stands discontinued on and from1st January 2008 and no prejudice has been caused to the concerned-workmen as they have been given additional Privilege Leave and monetary compensation, in lieu of discontinuation of the said Combined Causal Leave/ Sick Leave. Therefore, it is lastly prayed that, the complaint be dismissed with costs.

43. Below Exh. U-21 the complainant has produced on record the second transfer-order dated 28th November 2003 and other 2 documents in its xerox-form.

44. On the basis of rival contentions of both sides as narrated above, it seems that, the Learned Predecessor of this Court below Exh. O-1 on 11th June 2004 has framed in all 4 issues and they are being answered by this Court, of course, through its findings supported with the reasons thereof.

ISSUES	*FINDINGS*
(1) Does the complainant prove that the transfer was actuated with mallce ?	No
(2) Does the complainant prove that the respondents adhered to the unfair labour practice under Items 3, 7, 9 and 10 of Schedule IV of the MRTU and PULP Act, 1971 ?	No
(3) Whether the complainant is entitled for the declaration ?	No
(4) What is final relief/award ?	As per the final order so passed today in the 2nd session.

Reasons

45. Heard the learned advocate Shri Shivdasani for the complainant on 11th January 2001 and the learned advocate Smt. Shilpa Bhatia holding for Shri B. G. Goyal for the respondents on 18th January 2011; respectively. The respondents have brought on record, the case-laws through the compilation below Exh. C-17 on 20th January 2011, on which; he has relied upon. The complainant has filed his compiation below Exh. U-27 relying upon the two case-law so mentioned therein and today in the morning session ; he has tried to distinguish the case-laws, on which; the respondents have relied upon by way of 'reply' on law-point; respectively.

46. *Issue Nos. 1 and 2.*—Issue Nos. 1 and 2 so framed by the Learned Predecessor of this Court; it would be just and proper for this Court to answer them, through its findings-in-common; for maintaining the brevity of the same and avoiding overlapping thereto. It is as per the settled principles of law that; both on facts and in the eyes of law, it is for the complainant initially; the heavy burden of proof lies upon the complainant to prove the unfair labour practices as he alleged as against the respondents below Exh. U-1. In furtherance thereof; the complainant has filed his affidavited-testimony in lieu of examination-in-chief below Exh. U-20 on 25th February 2008; whereby virtually stating and reiterating the whole of the contentions he has pleaded below Exh. U-1 and nothing more. He got duly cross examined on behalf of the respondents. Through his pursis below Exh. U-22 dated 27th June 2009 the complainant has closed his side of the oral evidence and the respondents have examined in all two witnesses below Exh. C-11 and C-15, of course, through its respective affidavited-testimony in lieu of examination-in-chief of one Shri N. M. Kulkarni on 21st October 2010; respectively.

47. On this count; it is the oral submission of the learned advocate for the complainant that, earlier transfer order dated 26th June 2002 from its Mumbai branch to Bhopal in Madhya Pradesh remained to be unchallenged; as he is not pressing it. He has orally submitted before the Court that, in view of the interim-relief order so passed by this Court below Exh. U-2 dated 29th April 2003 and option was given to the respondents,transfer the complainant elsewhere nearest to Mumbai. Hence, the second transfer-order dated 28th November 2003, tranferring the services of the complainant; is under-challenge precisely in this matter. It is on account of his transfer was from factory of the respondent to the service centre at Pune. Hence, it is illegal, *malafide*; since it is his oral submission on this count that, the Respondent No. 1 M/s. Godrej and Boyce Mfg. Co. Ltd., with which; the complainant was initially got employed and continued for years together; but the very transfer-order was issued by the respondent No. 3 i.e. Godrej Appliances Ltd.

48. To that effect; the learned advocate for the complainant on record has invited the attention of this Court to Exh. C-4 the list i.e. the appointment order below Exh. C-4A issued by the Respondent No. 1 Company in his favour. It is his further submission that, in the year 2001, his service were loaned to the respondent No. 3 that too, without consent of the complainant. Hence,

it is illegal, but alongwith others it was done, and in support of his oral submissions, he has referred to and relied upon the Judgment of our Hon'ble Bombay High Court, in the matter between *Hindoostan Spg. and Wvg. Mills Ltd., V/s. Sharad G. Khanolkar and Ors. reported in 2002-I-CLR-999* and the law laid down therein that "*The mills transferred the workmen from one employer to another employer and this cannot be done without the consent of the workmen*".

49. In this respect; it is his oral submission further that, the complainant was appointed as a 'machinist' and through his affidavited testimony, more particularly *vide* Para 7 below Exh. U-20 the nature of his work he was doing have been narrated therein i.e. during the period of 1996 to 2002.

50. According to the learned advocate for the complainant; as the complainant did not accept the VRS so declared by the respondents, that was the part-para /reason for his impugned transfer earlier to Bhopal and then to Pune. To that effect; Annexure 'B' with Exh. U-21 is the document, he pressed into services and further submitted that, the Respondent No. 5 was not called as a witness by the respondents here in this matter, hence, on this count; an adverse inference be drawn as against these respondents and benefit be given thereof to the complainant.

51. The impugned transfer of the complainant to the dealer is also *malafide* and on this count; he has taken a strong-exception, by relying upon the Judgment of our Hon'ble Bombay High Court, in the matter between *Bajaj Auto Limited V/s. Shrikant Vinayak Yogi and Ors. reported in 2006-II/CLR-614;* wherein it is held that "*If the dominant motive of the employer was to punish the employee, the transfer is bad. If it was to ensure efficiency in administration, the transfer has to stand*". further it is held that, "*The dealers are independent entries in the eye of law. They cannot be said to be a part of the establishment of the petitioner company*".

52. In this respect; the learned advocate for the complainant has referred to Exh. U-21 the list; wherein there is a 'pursis' by way of advertisement in the local newspaper 'Loksatta' dated 23rd April 2003; advertisement for the employment to the post of Machinist was done. It does show that, there was no surplus staff, but they wanted to recruit new one. Then, he took this Court to Exh. C-4 the list; wherein the documents do support the case of the complainant by way of settlement. Exh. C-11 is the evidence of one Shri S. B. Patel whereby pointing of demerger and exh. C-15, wherein Shri N. M. Kulkarni's evidence on behalf of the respondents have given some admissions for which, he has pointed out to this Court in his cross and lastly, the documents with the list below Exh. C-17 are not relevant in this matter, he has submitted before the Court.

53. On the other hand; it is the oral submission of the learned advocate for the respondents that, both earlier order of the complainant's transferring the services to Bhopal (Madhya Pradesh) as well as his transfer by way of relocation to Pune Service Centre is not at all *malafide*; but based upon as per the exigencies of work of the respondents and its requirements at the material time. And that has been spelled out through and by way of affidavit-in-reply below Exh. C-3 through the relevant paras by mantioning that, all the employees with the Respondent No. 1 have been transferred to the Respondent No. 3 and they have been contained by virtue of the settlement with the recognised-union and thereby there was compliance of the statutory provisions of Section 25-FF of the Act, 1971. Then she took this Court to Exh. C-4 the list; wherein all settlements so arrived at between the said recognised-union and the management; then appointment order wherein the terms and conditions of his services are in consonance with those terms and conditions and it not any derogation thereof. The said transfer got done by the management. Then, she took this Court to Complaint (ULP) 433/2001 which was on the similar type of grounds and got dismissed by the respective Industrial Court, Mumbai.

54. The learned advocate for the respondents has shown fairness by pointing out to this Court that, it is not denied by the respondents that, the very complainant initially got appointed in its employment with the Respondent No. 1 and his nature of job as a 'Machinist' was also not at all denied. But it is her oral submission on this count that, the very 'Machinist' can a job at the service-centre effectively; since he knows well what are the manufacturing-defects; as a pre-delivery inspection, he used to cary out. Therefore, it is not *malafide* transfer; alongwith-him a number of other persons were transferred and these transfers were not set aside by any Court of law, but they were relocated only.

55. Then, she took this Court to the 'additional-written-statement' below Exh. C-7; wherein it is contended and pleaded by the respondents that, as per its business exigencies and exigencies of work, the services of the complainant were transferred to its service centre at Pune; thereby his emoluments have been protected by these respondents evenafter his impugned transfer. So also his job has not been changed by these respondents on account of the said transfer. Similarly, no prejudice has been caused to him by virtue of his transfer to Pune.

56. Then she took this Court to the complainant's cross-examination below Exh. U-20; whereby he has plainly admitted that, in respect of his wages that were done as per the said settlement. Then,below C-11 the first witness Shri S. B. Patel for the respondents had submitted before the Court that, allegations so levelled by the complainant have been remained to be proved by the complainant; since in his cross-examination, nothing has been done to that effect.

57. Then, she took this Court to Exh. C-15; wherein the second witness Shri N. M. Kulkarni for the respondents has filed his affidavited-testimony in lieu of his examination-in-chief and in support of her oral submissions; but through the learned advocate Shri B. G. Goyal for the respondents has referred to and relied upon in all 10 case-laws, through the compilation below Exh. C-17 filed it in record on 20th January 2011. They are as under :—

1. *It is Judgment of our Hon'ble Bombay High Court, in the matter between Brihanmumbai Union of Journalists V/s. Indian Express Newspapers (Bombay) Limited and Ors. reported in 2010 (4)-All-MR-472; wherein it is held that.....*

"There is nothing on record to show that any of the employees was ever compelled to accept benefit under VRS. Being so one fails to understand how the event which has occurred subsequent to the action of transfer can be of any help to contend that the past action was malafide.

2. Then, another Judgment of our Hon'ble Bombay High Court, in the matter between Associated Cement Companies Limited, Mumbai V/s. Associated Cement Staff Union, reported in 2009-II-CLR-904; wherein it is held that.....

"It was not possible to accept the submission that a mere an order of transfer would affect adversely the workmen concerned where transferability is a condition of service."

Further it is held that.....

"The management has issued a notice of voluntary retirement on 4th February 2009 at all cement plants in the Country would not at the interim stage furnish a ground for interfering with the order of transfer. It is for the management to determine."

3. Then, the Judgment of the Hon'ble Madhya Pradesh High Court, in the matter between Shaw Wallace and Co. Ltd. V/s. C.G.I.T. reported in 1970-II-LLJ-710; wherein it is held that.....

"It is well-settled that the employer is in the best position to Judge how to distribute his employees between different jobs, departments and branches."

4. Then, on the same law-point; there is a Judgment of our Hon'ble Bombay High Court, in the matter between Executive Engineer, Mechnical Division, Ahmednagar and Ors. V/s. Madhav Narhari Walake and Anr., reported in 1996(3)-LIN-623.

5. Then on the same law-point; there is a Judgment of the Hon'ble Delhi High Court, in the matter between General Marketing and Manufacturing Company Ltd. V/s. Presiding Officer and Ors. reported in 2000(2)-LIN-591.

6. Again, on the same law-point; there is a Judgment of the Hon'ble Supreme Court of India, in the matter between M/s. Parry and Co. Ltd., V/s. P.C. Pal. Judge of the Secod Industrial Tribunal Calcutta and Ors. reported in 1970(21)-FLR-266.

7. Then, the Judgment of the Hon'ble Madras High Court, in the matter between Supreintending Engineer, South Arcot Electricity System (North), Villupuram and Ors. V/s. P. Chakkarapani reported in 1989-II-LLN-93.

8. Then, the Judgment of the Hon'ble Supreme Court of India, in the matter between State Bank of India V/s. Anjayn Sanyal reported in 2001-LLR-548.

9. Then, the Hon'ble Rajasthan High Court, in the matter between Damodar Prasad and Ors. V/s. Rajasthan Stae Road Transport Corporation and Ors. reported in 2002-LLR-87.

10. And Lastly, it is the Judgment of the Hon'ble Delhi High Court, in the matter between Rajesh Talwar V/s. State Trading Corporation and Ors. reported in 2000-LLR-105; respectively.

58. By way of 'Reply' as far as these two issue are concerned; the learned advocate for the complainant today in the morning session has submitted before the Court that, it is a *malafide* transfer so impugned inthis matter, since it was done for the extraneous-reasons. Hence, it has been challenged, and therefore, none of the case-laws so relied upon by the respondents; is helpful to it.

59. The main-objection in terms of unfair labour practice so alleged by the complainant in this main complaint below Exh. U-1 and repeated the same in his affidavited-testimony, particularly *vide* Para 7 showing his earlier nature of work as a 'Machinist', he was doing with the skill and training with the Respondnet No. 1 company. And later in *vide* Para 21 onward; how it has been changed by asking him to work at its service-centre with the respondents at Pune. It has got changed, as he alleged and what has been prompted to effect his-transfer from Respondent Nos. 1 to Respondent No. 3 to Mumbai; to Pune-service-centre is on account of that, as he did not accept the VRS. Hence, with a *malafide* intention and for extraneous reasons; as the transfer was affected thereto. Then, he has named some of his co-workmen *vide* para 23 of his affidavited-testimony on Page No. 8 below Exh. U-20. Then, he admitted in his cross his appointment letter, which is below Exh. C-4A. He has further admitted in his cross on Page No. 10 below Exh. U-20 that, he was working in Plant No. 16 while employed with the Respondent No. 1. He had worked on Turrent Lathe Machine and Boring Machine. While with Respondent No. 3, he was working in Plant No. 2 and accordingly; he worked on boring machine, an elsewhere also. That, he was ITI Machinist and holding the National Apprentice Certificate. He has accepted and admitted that, wage-settlement was signed with the union and it is on record.

60. In respect of other co-workmen of the complainant transferred to other places; alongwith this complainant; the very complainant in his cross below Exh. U-20 on Page No. 11 has fairly admitted that, the respondent No. 1 has transferred many of its employees to different locations in the country by name; Mr. Vijay Pawar to Indore; Mr. B. M. Pawar to Indore; Mr. Kalidas Panchal to Ahmadabad and Mr. Dev Madhukar to Indore. These persons were transferred from the Respondent No. 3; but denied to the suggestion that, Mr. M. V. Gavade, Y. N. Panchal and S. K. Sawant were transferred from Respondent No. 1 due to non-availability of work.

61. In his cross-examination on Page No. 12 below Exh. U-20 has admitted that, before 1992 the refrigeration-division was the part and parcel of the respondent company and further admitted that, at Bhopal, he was to be given the work of Pre-Delivery-Inspection. He further admitted that, "*I was told here that he would be required to take inspection when the goods would be delivered at Bhopal*". And the relevant admissions comes from the mouth of the complainant is at Page No. 12 below Exh. U-20, the Court quotes him, "*I can do above said work. At Pune, I do the work of PDI, getting the repairs work done from franchisee and keeping its record. At Pune I am required to check in Warehouse the goods being delivered to the stockist. The respondent pay me salary. I can do the work of service centre because it is unskilled*".

62. The material admission comes from the mouth of the very complainant in his cross on Page No. 12 below Exh. U-20, the Court quotes him, *"My grade and wages were protected by the respondent No. 3. I have no any documents in respect of statement regarding Kamble, Sankpal etc. in para 6 of my affidavit"*.

63. Then, particularly the said complainant in his cross *vide* Page No. 4 below Exh. U-20 has admitted the very appointment-letter as correct i.e. Exh. C-4A. And further admitted in the same breathing that, several other-employees were also transferred, alongwith him at different places. Some transfers were challenged before the Industrial Court. The interim relief application in those cases were rejected. In respect of the nature of work; the complainant has admitted in his cross on Page No. 14 below Exh. U-20 stating that, he has not informed the respondent that, he was unable to do the work available at Pune. But in the same breathing, he has admitted that, he was doing the work and getting the work done therein.

64. In respect of his allegation on account of non-acceptance of VRS by him; the complainant below Exh. U-20 in his cross *vide* Page No. 14 has admitted that, none of those employees had filed complaint against the company regarding-VRS. It is true that, the rise is given as per settlement.

65. In this respect; in order to assess the oral evidence simultaneously it is incumbent upon this Court, to go through Exh. C-4 the list; the very appointment letter dated 6th February 1996 issued by the Respondent No. 1 Company in favour of the complainant (Exh. C-4'A');wherein it is mentioned as the 'terms and conditions of service in respect of his probation-period. Then, in respect of his basic wage, plus dearness allowance. Then, *vide* Para 4 it is specifically mentioned that, "*You may be called upon to work at any of the Company's Establishment in Bombay City or Greater Bombay without any extra remuneration or compensation whatsoever*". Then, Clause 5, "*You may also be called upon to work at any of the Company's Establishments within the terrirories of India and/or to undertake tours or other assignments in connection with the Company's business. You will be eligible for traveling expenses and other allowances according to the rules for the time being in force*". Then, there is a mention in respect of leave to which, he was entitled to and he has signed by way of his endorsement to have been accepted thereunder.

66. The Court has gone through the settlement so arrived at between the Respondent No. 1 and Godrej and Boyce Shramik Sangh dated 1st November 1999 below Exh. C-4'B'. Then, other documents with the list below Exh. C-4'C' i.e. the nature of job carried out by the complainant with the Respondent No. 1 Company as a Machine Operator through Page Nos. 119 to 130 (Exh. C-4 'C') and the Production records maintained by Plant No. 2 of the Respondent No. 3 (Page Nos. 131 to 149 Exh. C-4'D). It does show that, as per the terms and conditions of service, the complainants' services were transferable out of Bombay City or Greater Bombay, without any extra remuneration or compensation as mentioned therein and that has been done. By virtue of his own admission below Exh. U-20 the complainant has given that, there were no change of his pay and other allowances, even upon his transfer to Pune; but that have been protected as admitted by him.

67. In respect of his allegation that, by not accepting the VRS so declared by the respondent-company with a *malafide* intention and for extraneous reasons, the services of the complainant have been transferred earlier to Bhopal and then to Pune has remained to be proved by complainant by any of such co-employees citing as a 'witness' in order to support, substantiate and corroborate his contentions. Hence, that allegation remained to be proved on behalf of the complainant so he levelled below Exh. U-1, of course, through the cogent evidence before the Court.

68. In this respect; the respondents in order to prove its 'defence' and 'plea' in the written-statement below Exh. C-3 and additional-written-statement below Exh. C-7; the respondents have examined by filing affidavited-testimony in lieu of examination-in-chief of its two witnesses below Exh. C-11 and C-15 respectively; whereby reiterated the whole of the contentions as made therein in their defence and nothing more. In his cross-examination *vide* Para 19 below Exh. C-11, he has admitted that, the complainant's services were loaned by the Respondent No. 1 Company with the Respondent No. 3 Company in the year 2001. Again, in the month of October 2001, his services were transferred by the Respondent No. 1 Company to Respondent No. 3 Company. Only the tripartite settlement that has been done with the recognized-union is on record and no other documents. In respect of threatening, the said witness in his cross below Exh. C-11 *vide* Para 21 has denied the suggestion to that effect that, the Respondent Nos. 4 and 5 have threatened the complainant, if he does not opt for VRS, his services would be transferred to its unit at Bhopal.

69. In respect of nature of work of service centre at Pune; the said witness below Exh. C-11 for the respondents *vide* Para 22 on Page No. 14 has fairly admitted that, the respondent is having its service centre at Pune; wherein the employees have required to do the work of repair,services and 'Pre-Delivery Inspection'. He has fairly admitted that, prior to his transfer to Pune service-centre; the complainant has not worked in the service-department. Of course, that has been the case of the complainant to that effect. He has fair enough to in admitting in his cross below Exh. C-11 that, right from beginning, the complainant was working in manufacturing-process of its Vikhroli plant. But admitted in the same para that, the respondents have not having any factory at Pune.

70. Then, second-witness below Exh. C-15 the respondents have filed his affidavited-testimony of one Shri N. M. Kulkarni; wherein in his cross *vide* Para 11 he has admitted on *oath* before the Court that, the resepondent-company having both service as well as sales centres at Pune.Wherein at Pune the repair, service and maintenance have been carried out. And this complainant by name; Ankush Toraskar has been transferred to its service centre. But denied to the suggestion that, the complainant has not worked the service, maintenance and repair of company's productes. He further admitted *vide* Para 12 in his cross that, right from his transfer to Pune; the complainant was required to work initially at Dynamic Logistics, Aarti Warehouse, Sanghvi Warehouse. And further admitted that, in all above 3 places, the company's products are stored and further admitted that, he was the supervisor for the work of the complainant at Pune. *vide* Para 13 in his cross, he has admitted below Exh. C-15 that, the complainant used to take 'visual-inspection' of the company's product at warehouse, but not at company's branch-office and the employee who used to do repair, mainenance and servicing of the company's products cannot do the work of machine operating work at the shop-floor of the company.

71. The Court has also taken a cursory-glance of the xerox-copies of the documents running from Page Nos. 1 to 45 below Exh. C-16 have produced on record by the respondents i.e. the print-out of the swipecard details in respect of Shri N. M. Kulkarni working at Pune for the period from January, 2007 to September, 2010, which do show that, the said witness below Exh. C-15 Shri Kulkarni was visiting and supervising the work of the complainant therein; respectively.

72. In respect of the complainant i.e. his loaning from one company to another; his consent was required; as held in the Judgment of our Hon'ble Bombay High Court, in the matter reported in *2002-I-CLR-999 (cited supra)* with due respect; as the terms and conditions of service so

mentioned in the very appointment-order and as per the terms and conditions of service so determined in respect of wage-fixation and other-allowances remained protected fully and properly-of-the complainant. Even prior to that of his transfer to Pune service centre from Mumbai got fully protected and remained the same unaltered, and therefore, there has been no alteration in the terms and conditions of employment, due to his transfer.

73. Similarly, there has been the transfer-impugned in this matter from Mumbai to Pune of the complainant's services got done as per the terms and conditions of his service peculiarly and particularly as mentioned in the very appointment-order below Exh. C-4 'A' and that has been done admittedly as per the complainant's own admission in his cross below Exh. U-20. In the light of the law so laid down by our Hon'ble Bombay High Court in its Judgment, in the matter reported in *2003-III-CLR-588 (cited supra) (later in time);* so also, in respect of VRS though not accepted, but later on transfer got it proved, as per the exigncies of work of the respondent company with its service centre at Pune. And it does not entail any more skill/a better job, but it does not require any skill. However, admittedly, on the basis of his earlier experience with the Respondent No. 1 Company at Mumbai; that has proved to be helpful in respect of carrying a visual inspection of the Company's products at its service centre at Pune easily and properly; as he did act and work as a 'Machinist' initally as a Turner also, he knew better-manufacturing defect, if any, so noticed by him through his visual pre-delivery inspection as admitted and also got proved from the side of the respondent i.e. the light of the law so propounded by our Hon'ble Bombay High Court, in the matter reported in *2009-II-CLR-904 (cited supra);* which does support to the facts and circumstances as emerged in this matter. Since on this count. It is to be mentioned by this Court that, the complainant has not proved the allegations in respect of, that since he did not accept the VRS declared by the respondents; that was the reason why, with the *malafide* intention/extraneous reasons, the services of the complainant were transferred to its Pune service-centre; it remained to be proved by the complainant, of course, through the cogent evidence. And therefore, the law laid down by our Hon'ble High Court, in the matter reported in *2002-I-CLR0999 as well as 2006-II-CLR-614 (cited supra)*; with due respect, would not lend any help and assistance in favour of the complainant; since his services were not transferred to any dealer; but his services were transferred to the service centre of the respondents at Pune. And the products were located and stored with the Dynamic Logistics and other warehouse only and for his work; he was drawn and paid with his wages by the Respondent No. 3 only. Therefore, on all counts; as the facts and circumstances are quite defferent than involved in the case-law *2006-II-CLR-614 cited supra)* and *in the Complaint (ULP)* matter on hand before this Court. Hence, it cannot be made applicable, not it attracts the ratio laid down therein to the facts and circumstances here in this matter.

74. The services of the complainant are very well transferred out of Mumbai to anywhere; where the establishments of the respondents have been located in India and *vise-versa*. It is in consonance with the terms and conditions of his services as mentioned in his appointment letter Exh. C-4'A' and as per the terms and conditions so involved in the 'settlement' so arrived at, for which; a periodical rise in wages as well as other allowances have been taken effect; too. And it is an incident and part and parcel of the service-conditions; to which the complainant is also amenable in the light of the law so laid down in the matter reported in *1996(3)-LIN-623 (cited supra);* as well as *2002-LLR-87 cited supra);* which do apply to the facts and circumstances as emerged in this matter in toto.

75. Therefore, it is held that, the complainant has utterly failed the prove that, the impugned transfer order was actuated with malice, of course, through the cogent evidence before the Court. On the other hand; the resepondents have disproved the case of the complainant to that effect, through the oral evidence, as well as documentry evidence on record as narrated and discussed above. Therefore, that Issue No. 1 is required to be answered in the 'Negative'.

76. Similarly, as the complainant has utterly failed to prove that, the respondents have indugled into an unfair labour practice as per Items 3, 7, 9 and 10 of Schedule IV of the Act, or either one of Schedule IV of the Act, 1971, of course, through the cogent evidence before the Court. But the respondents have proved, of course, through the oral as well as documentary evidecne that. It was as per the work-exigencies, the services of the complainant were transferred; to its service centre at Pune. And that has adversely affected the complainant; as his full wage-packet, alongwith other allowances have been fully protected by these respondents; upon his transfer to Pune service-centre from Mumbai. Therefore, no prejudice has taken place/caused to the complainant; alongwith his family members on this count. Hence, it cannot be dubbed as with *malafide*-intention for the extraneous reasons; his services were transferred.

77. It is not disputed at this juncture that; alongwith him; his other co-workmen have been also transferred to number of locations out of Mumbai and in India; though they have challenged the same, but none of them has succeded in his respective-litigation finally. Therefore, on all counts; it is held that, the complainant has failed to prove the Issue No. 1, of course, through the cogent-evidence; as it remained to be substantiated and corroborated from the complainant side as discussed earlier as above. Thus, the Issue No. 2 is also required to be answered in the 'Negative', for the reasons as narrated above.

78. *Issue Nos. 3 and 4.*—With regard to Issue Nos. 3 and 4; of course precisely and predominantly; on the basis of the negative finding the Court has given to the Issue Nos. 1 and 2 as above in the forgoing paragraphs of this judgment, the complainant is not entitled/is not deserved to be granted with any relief he has claimed for. It is also brought on record, by way of his admissions given by the complainant-himself that, the complainant has been working smoothly with its service-centre at Pune right from the year 2003 till 2011, as on today; without any prejudice, if any caused to him; alongwith his family members. Hence, it does not entail any relief he has prayed; is required to be granted, at this juncture. With this view in mind; finaly the Court proceeds to pass the following order; which would meet the ends of justice, equity and good conscience.

Order

The Complaint (ULP) No. 691/2002 filed by the complainant below Exh U-1 under section 28 for Unfair Labour Practices as per Items 3, 7, 9 and 10 of Schedule IV of the Act, 1971 stands dismissed, of course, with no order as to costs.

S. K. SHALGAONKAR,
Member,
Industrial Court, Mumbai.

Mumbai,
dated the 21st January 2011.

K. N. DHARMADHIKARI,
I/c. Registrar ,
Industrial Court, Mumbai.
Dated the 8th February 2011.

IN THE INDUSTRIAL COURT, MAHARASHTRA, AT MUMBAI

BEFORE SHRI S. K. SHALGAONKAR, MEMBER, INDUSTRIAL COURT, MAHARASHTRA AT MUMBAI

COMPLAINT (ULP) No. 511 of 1990 (H.C.T.B.).— Shri Waman Narayan Trimbakkar, Mahila Griha Vastu Bhandar, opp. Bldg. No. 29, Pant Nagar, Ghatkopar, Mumbai 400 075.—*Complainant*.— *versus*— (1) M/s. Crompton Greaves Limited, Machine Division IV, L.B.S. Marg, Kanjurmarg (W.), Mumbai 400 078, (2) Shri Ambekar, Production Manager, M/s. Crompton Greaves Limited, Machine Division IV, L.B.S. Marg, Kanjurmarg (W.), Mumbai 400 078,.—*Respondents.*

In the matter of complaint of unfair labour practices under Section 28 read with Section 30 as per Items 5, 6, 9 and 10 of Schedule IV of the MRTU and PULP Act, 1971.

CORAM.— Shri S. K. Salgaonkar, Member.

Appearances.— Shri S. N. Deshpande, advocate for the complainant.
Shri Samant, advocate for the Respondents.

Judgment

(Dictated and declared in open Court on dated 14th January 2011)

1. The Complainant has filed this complaint below Exh. U-1, as against the Respondent Nos. 1 and 2 so named in the caption thereof, under section 28; read with Section 30 in respect of unfair labour practices as per items 5, 6, 9 and 10 of Schedule IV of the MRTU and PULP Act, 1971 (hereinafter referred to as The Act, 1971), with this Court on 24th May 1990.

2. The contentions so pleaded by the complainant below Exh. U-1 the main complaint, that could be summarized in brief as under :—

That, he has filed this complaint in the capacity as an "employee" employed by the respondents.

3. The unfair labour practices in this respect did take place on and from 8th May 1990 and till continued as stated therein.

4. According to the complainant; he is an employee, employed as Casual/Temporary by the Respondent No. 1 company in its commercial business of production of Heavy, as well as Light Electric Meters used for various industrial-purposes. He has been in the employment with the respondents with effect from 2nd January 1975 and has been presently carrying out his duties in the category of skilled, semi-skilled, permanent workman of the respondents as "Machine Operators". In fact, more than 300 workers have been working with the company, out of these 60 workers are working as a Casual/Temporary on each and every day with it. They are paid as a daily wage alongwith dearness allowance and they used to work in two shifts with the respondents.

5. The Respondent No. 1 is the company got registered under the Indian Companies Act, 1961 and it is also an employer for this complainant. The Respondent No. 2 is Appointing Authority and responsible for day to day affairs, administrations etc. of the Respondent No. 1 company.

6. According to the complainant; it is his case further that, a trade-union by name Associations of Engineering Workers, a registered under the Trade Unions Act, 1926 and also a recognised-trade-union under the Act, 1971, who has entered into an agreement/settlement with the management in respect of Charter of Demands of workers from the category of permanent, casual, temporary etc. It is in operation and existence as on today. As per the terms and conditions of the said agreement/settlement, the respondents are liable to make permanent these temporary workers employed by it according to the seniority maintained by it. Thus, the respondents have put on the Notice Board the seniority list of these temporary workmen on 31st January 1989 to be made permanent for whom cut-off date was 19th May 1978 (Annexure 'A' is the copy of the same). He is the second senior-most temporary workman according to the said list.

7. Further it is his contention that, as per the terms and conditions of the said settlement; the respondents have made all temporary workmen permanent other than this complainant; whose names are mentioned *vide* Annexure 'A' with effect from 31st January 1989. According to him; the respondents have not made him permanent though he is second senior-most workmen from the said seniority; without assigning any just, fair, proper reason. Similarly, the respondents have not given him an opportunity of hearing. Hence, the very decision is arbitrary, vindictive, unreasonable, improper, unjustified and bad-in-law.

8. According to the complainant; as he contended therein the very practice and procedures, the complainant was offered minimum days break in services. On the other hand; those other temporary workmen, whose names have been mentioned in the said seniority list have been given maximum days break in service. Hence, by all respects, he is entitled and enjoyed more rights, benifits upon the other temporary workmen. But due to the said illegal decision, the respondents have taken the most junior workman to that of the complainant, who was getting monthly wages of Rs. 105 to 110 approximately per day with effect from 1st February 1989; but the complainant was getting Rs. 65 to 70 per day and that was discriminated shown and done to this complainant by giving unmerited permanancy to other temporary workmen other than this complainant, who were junior most than to the complainant. His past service record is clean.

9. The respondents *vide* its letter dated 23rd September 1989, reappointed the complainant as a temporary in services with immediate effect and through the appointment letter, he was appointed for a period of one month i.e. 23rd September 1989 to 22nd October 1989 with similar terms and conditions (Annexure 'B').

10. According to him further, as there was no need of issuing such reappointment letter to the complainant; as he was bearing Ticket No. 9112 and he was the secod senior-most temporary workman from the said list; thereby the respondents have indulged into an unfair labour practice on this count. Hence, he wrote a letter dated 30th September 1989 and put correct facts on record (Annexure 'C' is the copy thereof).

11. During the tenure of his service-period with the respondents; he has also completed 240 days of continuous service on many occasions;but still the respondents have declined to give justice, fair play to the complainant. Irrespective of his appointment letter for a month, the complainant has been continuously working with it as a temporary workman; thereby as per the terms and conditions of the said appointment letter; he acquired and entitled to the status of permanent employee with it. The respondents have also made 14 other junior temporary workmen permanent in its services from the II Phase of temporary workmen seniority list and the III Phase of temporary workmen seniority list for permanancy is under consideration.

12. He is being the senior-most; entitled to get permanency with effect from 31st January 1989; but the respondents have violated the terms of the said settlement. Through his second letter dated 18th May 1990 with the help of his legal advisor Shri Sunil Bagwe, he made bonafide grievance to the respondents (Annexure 'D'). Hence, according to him, it is an arbitrary decision/action on part of the respondents adversely affecting him and his rights, privileges and status/benefits of the complainant; thereby the respondents have resorted to unfair labour practices as against him as provided under the Act, 1971. The respondents have also discriminated amongst casual/temporary workers and it is by way or unfair labour practice as per Item 5 of Schedule IV of the Act, 1971.

13. The complainant further submitted that, though he was having 240 days uninterrupted continuous service with the respondents as allowed by the respondents to the temporary workmen to complate 240 days and vise-versa. Hence, there is no *bonafide* intention on part of the respondents. He was not appointed on *ad-hoc* basic, but his name is borne on the regular muster roll as casual/temporary worker;thereby the respondents have committed an unfair labour practice as per Item 6 of Schedule IV of the Act, 1971.

14. By violating the terms of the said settlement; by making junior temporary workmen permanent with effect from 31st January 1989; the very complainant is entitled for difference in wages with effect from 31st January 1989 as he has worked throughout as 'Machinist' in the employment with the respondents with effect from 2nd January 1975; but the respondents did not allow him to complete his required days of continuous service by giving short spell of artificial break in services with malafide, vindictive and bad intention. At no point of time, the service of this complainant were terminated with one month notice or at the expiry of period of the temporary appointment; thereby they have violated the mandatory provisions of the Model Standing Order and Industrial employment Standing Order; but by virtue of those acts, he acquired the status of permanent employee and thereby the respondents have deprived him the benefits of permanency as per the provisions of Section 25F and 25G of the Industrial Disputes Act, 1947 (hereinafter referred to as the ID Act, 1947). Thereby, the respondents have indulged into an unfair labour practice as per Items 9 and 10 of Schedule IV of the Act, 1971.

15. Therefore, according to the complainant; it was necessary to restrain these respondents from terminating his services of by giving him break in service for whatever the reasons. They be also restrained from changing, altering the service conditions of this complainant working since 2nd January 1975. So also he is required to be paid all benefits and difference in wages with effect from 31st January 1989.

16. Therefore, it is lastly prayed by the complainant therein that, by allowing this complaint in his favour, it be held and declared accordingly in respect of unfair labour practices under the Act, 1971.

17. It be also held and declared that, the complainant continued to be in the services of the respondents from the date of his appointment and he be granted with permanency in the employment with the respondents as a "Machinist" with retrospective effect i.e. 31st January 1989.

18. The respondents be restrained from terminating his services except reaching the age of superannuation and they be further directed to make his payments on difference in wages with effect from 31st January 1989. He be also granted with the cost of this litigation.

19. As per the very order so passed at Exh. O-4, dated 6th November 2009; this Court was permitted to reconstruct this file with the help of both the parties to this litigation; as except Roznama, Final Order and Exh. U-1;rest of the proceedings/documents got destroyed as noticed therein.

20. Therefore in that respect; the respondents have brought on record with the list below Exh. C-22. Its 'affidavit-in-reply' below Exh. D-63 on running page No. 24 with this list; wherein it is contended that could be taken down in short as under :—

> That, he has been filing this affidavit-in-reply in the capacity as a Sr. Personnel Executive of the respondent company. It is admitted *vide* Para 5 therein by the respondent company as stated that, it has been engaged in the business of manufacturing electrical equipments, having 7manufacturing divisions in Mumbai; wherein approximately 6,000 employees including the members of the staff are employed in the said divisions. The employees in the 'workmen' category are about 4,000.

21. According to the respondent company; depending upon business exigencies such as temporary increase in workload of permanent nature, or depending upon the leave vacancies, the respondent company has been engaging temporary hands. Thus, the very complainant at the material time was employed as a Machine Operator (semi-skilled) in the Machine IV Division at Bhandup or the first time the complainant joined its services at Bhandup as a machine operator on 2nd January 1975. After having work for 4½ months in the year 1975, the complainant was not in the employment of the company till 4th September 1985.

22. According to the respondent-company, it is further stated therein that, as per the practice which was prevaling at that time as and when any temporary workman is to be recalled for employment after his initial period of employment is terminated, a communication/message is sent through his co-workman preferably working in the same department and residing nearby to him. If not found easily, a letter is sent on the last known address of such a workman for recalling him for employment.

23. It is further stated therein that, admittedly, the complainant at the material time used to stay at Ghatkopar (E.), in and around the year 1975 and thereafter quite often workmen employed by the respondent used to stay at Ghatkopar. The company sent a communication/messages to the complainant, after the termination of the initial employment as a temporary hand through co-workmen; but the complainant did not turnup at all. And lastly, the company sought to recaell the complainant on 2 to 3 occasions, but the complainant did not at all turn up for employment untill September 1985. Even in the month of September 1985 the complainant was recalled for employment through his co-workman.

24. In the respondent company, the workmen were represented by the sole collective bargaining agent as certified as a recognised union under the Act, 1971 i.e. Association of Engineering Workers, which has been operating since the year 1984 therein; which has signed various settlements/agreements with this company from time to time in respect of wage scales, DA and other service conditions and the last such settlement covering daily rated workmen was signed on 24th June 1985 and the issue in respect of temporary workmen was discussed with the said union and the management and a consensus was reached that the employment of some temporary hands is inevitable having regard to the business exigencies and also having regard to the leave vacancies.

25. On 24th June 1988 the respondent company had approximately 1000 temporary workmen in its temporary pool in its said 7 divisions.Accordingly, the management has agreed the request of the said union to make 600 temporary workmen permanent from the said pool of 1000 temporary workmen during the currency of the said settlement dated 24th June 1988 and that would continue to be in operation/currency until the same is terminated by the recognised union and it is replaced by another settlement.

26. As per Clause 13.0 of the said settlement dated 24th June 1988, the respondent company was in the process of considering temporary hands from the said pool of 1000 temporary workmen for permanency and it was still going on.

27. The said clause of the settlement nowhere specifies/sets out any specific employee to be made permanent. The complainant is also one of the members of the said recognised-trade-union. Hence, the said settlement dated 24th June 1988 is binding upon him. Annexure 'A' is the employment particulars of the complainant service with it right from the year 1975. Annexure 'B' is the details of temporary workmen of machine IV Division who have so far made permanent and temporary workmen who have not be made permanent (Annexure 'C' is the copy of the said settlement dated 24th June 1988).

28. As per the last appointment of the complainant as a temporary workman was made by the respondent company through its letter dated 23rd September 1989 and it was valied for a period of one month *i.e.* with effect from 23rd September 1989 and ending with 22nd October 1989 respectively; as there was practice followed in the company that there used to be oral information to the concerned-workmen in respect of extension of specific period. Accordingly, the complainant was one of such workman was informed orally that, he would continue to be in the employment until he is otherwise informed about his termination of service. There was also apractice with the company so followed that, temporary workmen were orally informed for their termination and any workman a formal letter of termination is issued at the end of the shift of that day, on which his services would be terminated and intimation of his termination is given at the beginning of the shift of the day of termination and he was to be informed further to collect his letter of termination and dues from the time office at the end of the shift.

29. It is further contended therein that, on 6th May 1990 at about 8.30 a.m., the then Production Officer had orally informed the complainant that, his service will not be required with effect from 7th May 1990 and he should collect his written communication to that effect from the said Production Officer at the end of this shift on 6th May 1990. Therefore, for all purposes, the services of the complainant were terminated on 6th May 1990 but effective from the end of shift timing on 6th May 1990 *i.e.* at 3.30 p.m. But the complainant told the Production Officer that, he wanted to go out for some urgent union work and would come back and immediately left the place of work at about 8.50 a.m. But the complainant did not at all turn up. The Production Officer waited for the complainant for the whole day till the end of the shift on 6th May 1990 that he would come and collect the letter of communication as to the termination.

30. It is denied that, the complainant was on sanctioned leave from 8th May 1990 as the temporary workmen are not entitled for such leave and it was known to the complainant. The temporary workmen are entitled for six days of casual leave only, on putting in 6 months or continuous employment. They are also entitled to earned leave under the factories Act, 1948. However, thereis continued practice or allowing such employees to en-cash all their leave. Accordingly, the complainant waited for him that, he would come and collect his letter of termination. In fact, at least on 2 to 3 occasions messages were sent to him through his co-workmen on that count; but instead of collecting the said letter,the complainant approached this Court and opted an ad-interim injuction on 24th May 1990. Therefore, the complainant had stated blatant lie that, he was on sanctioned leave; as it was the practice in the company that, temporary employees do not take any leave since they invariably opt for encashment of leave. Hence, this complainant was not at all an sanctioned leave and he be asked to prove it strictly.

31. Therefore, the respondent-company was left with no scope/alternative, but to post his letter of termination dated 6th May 1990 on 20th May 1990 and that has been received by him on 30th May 1990 as per the postal records. The very *ad-interim* order dated 24th may 1990 was received by the respondent company through his advocate on 5th June 1990.

32. As the complainant services were terminated on 6th May 1990 and accordingly the complainant stopped for coming for work, the services of the complainant stood terminated before he filed the complaint on 24th may 1990 i.e. prior to passing of the *ad-interim* order dated 24th May 1990.

33. As per Clause 13.0 of the said settlement dated 24th June 1988 it was clearly understood that, the respondent company would be well within its right to engage temporaries with intermittent-breaks, depending upon the availability of work, business exigencies. Indirectly that has been agreed to by the said recognised-trade-union on that count. On that count; as per the said understanding, the company has agreed to make 600 temporary workmen permanent from the pool of 1000 workmen. Therefore, on this count, as per the contention of the respondent-company, the said break in service cannot be construed to be illegal or unjustified in any case.

34. In fact, the complainant has approached individually or independent of his union *i.e.* Association of engineering Workers, of which he is a member, would show that the complinant's case is not backed by his own union, which is a sole collective bargaining agent and who has signed the said settlement dated 24th June 1988.

35. As per the said settlement dated 24th June 1988 he is applicable to all employees of the 7 Divisions, and therefore, the complainant cannot be allowed to separate the division *i.e.* machine IV Division, in which he was employed. It is denied that, the respondent company on 31st January 1989 put on the Notice Board the first phase or temporary workmen's seniority list of permanency. he be put to the strick proof inrespect of the purported seniority list *vide* Annexure 'A' to the complaint filed by him.

36. The complainant claims that, he ought to have been made permanent on 1st January 1989. In fact, according to the respondent company;no one from the said list was made permanent from 1st January 1989. Without admitting but for the assuming the same could be hopelessly barred by period of limitation under the Act, 1971. The ticket number so alloted to him as alleged by him is for the indentfication only. Further, it is stated that, all legal dues of the complainant were paid as and when his services were terminated.

37. The contentions, averments alongwith the allegations so levelled by the complainant as against it are denied to be true; as the complainant was not in the employment for last 10 years after his initialtermination. Hence, his case cannot be compared to that of other 14 such employees, as the said 14 temporary workmen had work for regular durations year after year, but the complainant had joined the company in the year 1975 does not entitle him to permanency automatically.

38. The temporary appointments were given on business exigencies and/or some arising out of leave vacancies. The complainant has based his entire claim on the said settlement dated 24th June 1988 and the said settlement was signed with the recognised union and is binding on the complainant and it is lastly prayed that, the *ad-interim* order dated 24th may 1990 so passed by this Court needs to be vacated as lastly mantioned therein.

39. Exh.'E' on running Page No. 41 titled as 1st Phase temporary Workmen Seniority List for Permanency Cut-off dated 19th May 1978.

40. Then Exh.'F is the certified true copy of the *ex-parte Interim-relief* order dated 24th may 1990. Then Exh.'G' is the application for joining as party made by the union *i.e.* Association Engineering Workers registered under the Act, 1926 dated 26th April 1991. Then Exh.'H' is the Exh.U-14 below which the complainant's examination-in-chief and his cross-examination by other side from running Page No. 48 to 63 got recorded on oath before the Court. Then Exh.'I' on Page No. 64 is the witness on behalf of the respondents by name Shri H. P. Bhosale below Exh. C-4 got recorded and he duly cross-examined upto Page No. 74. Then there is a xerox-copy of the order/ judgment passed by the Learned Predecessor of this Court titled under Exh.'J' from running Page No. 76 to 111. Then the affidavit on behalf of the respondent company titled under Exh. 'K' from running Page no.112 to 116 in the Writ Petition No.2668/1996 filed therewith. Then Exh.'L' is the affidavit in rejoinder and lastly Exh.'A' running Page No. 123 title as list of workers working with the petitioner in machine Division IV at Kanjurmarg. Then on Page No.125 Exh.'B' dated 2nd July 2002 is the list addressed by the complainant to the respondents; respectively. Below Exh.C-24 there is a clarification on the list of documents filed by the respondent company *vide* its application

dated 14th January 2010 below Exh.C-22. Below Exh. U-36 the complainant with this list on 11th October 2010 has produced on record xerox-copies of his examination-in-chief recorded below Exh.U-14 earlier in this matter.Below Exh.U-24 the list; on behalf of the complainant xerox-copies of the documents running 14 in number got filed on record by him on 11th December 2009. Originally it is dated 2nd February 1995.

41. In view of the order passed by our Hon'ble Bombay High Court, Division bench in the Letters Patent Appeal No. 110/2005 in the Writ Petition No. 2688/1996 as well as Letters Patent Appeal No. 291/2005 in the Writ Petition No. 2688/1996 through the common order dated 9th July 2009 so passed therein thereby dismissing both the appeals Indirectly confirming the very order so passed by the Hon'ble Single Judge in the Writ Petition No. 2688/1996 dated 16th July 2004. More specifically as per the observation made *vide* Para 7 on Page No. 6 of the said order dated 16th July 2004 in respect of non-consideration by the Learned Predecessor of this Court aspect in respect of permanency even under Model standing Orders and having completed 240 days. Similarly, nor having considered as to whether there was any breach under Item 6 of Schedule IV of the Act, 1971. So also; the appointment-order subsequent to 1985 during which the petitioner was not appointed and has not been considered at all; on Para 7 of Page No. 6 and 7; respectively.

42. It is imperative on part of this Court to frame the following issues and these issues are being answered by this Court, of course, through its findings supported with the reasons thereof as under :—

ISSUES	*FINDINGS*
(1) Does complainant in this matter prove that, he has completed 240 days of continuous service during the last preceding 12 months to the date of his alleged termination, and therefore, he is entitled to be granted permanency as per the Model Standing Orders applicable to the respondent establishment ?	No
(2) Does he further prove that, there has been breach whether there has been indulgence of unfair labour practice at the hands of these respondents within the meaning of Item 8 of Schedule IV of the Act, 1971 ?	No
(3) Does complainant prove that, the respondents have indugled into an unfair labour practice as per Items 5, 9 and 10 of Schedule IV of the Act, 1971 as against the respondents ?	No
(4) Does complainant prove that, he is entitled to be granted with the relief he has claimed below Exh. U-1 as against the respondents ?	No
(5) What is the final declaration/order ?	As per the final order so passed today in the 2nd session.

Reasons

43. The learned advocate Shri Samant on 14th December 2010, 20th December 2010 and lastly on 24th December 2010 has advanced his oral evidence, across the bar at length and by way of 'reply', the learned advocate for the complainant Shri S. N. Deshpande on 22nd December 2010 has also argued it, both on facts and on the law-point; too. This is in addition to the gist of written arguments below Exh.U-38 filed on behalf of the complainant on 8th November 2010. Below Exh. U-39 the list of authorities/citations, on which the learned advocate Shri Deshpande has relied upon for the complainant got filed on record. They are 13 in number. Again, it seems that, there is a reply to the alleged clarification application dated 30th November 2010 on behalf of the respondents got filed on 4th December 2010. Again, below Exh.U-41 the complainant; the complainant has relied upon in all 11 case-laws filed it on record on 22nd December 2010. Below Exh.U-42 there is a 'reply' of the complainant to the points raised for the arguments of the learned advocate for the respondents filed on record on 22nd December 2010; respectively.

44. On the other hand; below Exh.C-24 there is a classification on the list of documents filed by the respondent-company *vide* its application dated 14th January 2010 below Exh. C-22. Below Exh. C-25 there is an affidavit on behalf of the respondent-company; through one Shri N. V. Wadekar, the Manager-HR of the respondent company dated 30th November 2010.And lastly with the compilation below Exh.C-26, the respondents have filed on record, the case-laws on which, it has relied upon. They are 10 in number on 20th December 2010; respectively.

45. *Issue No. 1.*—With regard to this issue; it is the oral submission, in addition to 'written-argument' filed by the complainant's behalf by pointing out that, daily wage earner below Exh.C-22, Annexure 'A' and 'B' on Page No. 14 and 29 *vide* Para 15. Silimlaarly; on page No. 8 of the main complaint,the complainant has completed about completion of his continuous service of 240 days. And as per Section 52 of the factories Act, 1948, a weekly-off was paid off-day. And to that effect; he has taken shelter of the case-law with the compliation below Exh. U-39 *i.e.* more particularly as per Section 2(G)(4) the definition of law-off as per the Model Standing Orders Act, it is the weekly off that is being paid and it is required to be taken into consideration while calculating total service of 240 days during the last preceding year. Then, as per section 4(D)(1) of the Model Standing Orders Act, artificial break, if any, is also required to be taken into consideration for 240 days of service. In respect of contention on behalf of the respondents that, no recognised trade-union has appeared to support the case of this complainant. he has pointed out of this Court that, as per Exh.C-22, page No. 44, 45 and 48, the recognised-trade-union has sought permission of this Court to implead it to the party of this litigation. Hence, the learned advocate for the complainant has submitted that, it is a false-allegation made by the employer; against this complaint and it be rejected.

46. On this count; it is the oral submission of the learned advocate for the respondents that, in fact; it was the fixed-term employment as per Section 2(oo)(bb) of the Act, 1947; no sooner the fixed term expires and when there is no renovation action at the hands of the employer-concerned, it is treated as the temporary/causal-services of this complainant that has been terminated both on facts and in the eyes of law.

47. Then, it is his oral submission that, as per section 79(1) extension and (2) extension to that effect of the factories Act, 1948; it would not help and assist to this complainant with the 'say' that, as per Model standing Orders Act, 1959 (Rules) section 4(c) extension. During the period of 1985 to 1995 there were weekly holidays, but they are not paid holidays; at all. Then, he has brought to the notice of this Court a complaint copy is from with the list below Exh. C-22. By pointing out that, the very complainant has not completed specifically as to when and in which year/period he has completed 240 days of continuous service. Infact, according to him, his services were terminated on 6th may 1990 *i.e.* inother words according to him; when the complainant got filed he was not either on leave, not in the employment with the respondents, at all. Therefore, the very complaint cannot be entertained by this Court.

48. Annexure 'D'/Exh.'D' is the affidavit-in-reply, which has been treated as a 'written-statement' as per Exh.C-8 dated 17th January 1995 so mentioned in the Roznama-concerned, on that day. Hence, that has been rightly considered by the Learned-Predecessor, in his earlier judgement to that effect.

49. Then; Exh.'A' (running page No. 48) *i.e.* complainant's examination-in-chief below Exh.-U-14 got recorded. On the other hand; on behalf of the company's witness below Exh.C-14 running Page No. 64 got examined and he got duly cross examined on behalf of the complainant. In fact; in the main complaint, there has been no pleading, no evidence in respect of violation of standing-orders by the respondenet company. But, in fact; no artificial breaks were given no him, but extended on some-occasions; as he was one of the committee member of the said recognised-trade-union, with which; the settlement has taken place by the management of the respondent-company. In the 'written-submissions' below Exh.U-38 filed on behalf of the complainant on 8th November 2010; it is not mentioned therein that, it was not a paid-holiday and there has been no pleading, nor evidence adduced in respect of completion of 240 days in which year/month nothing has been proved from the side of the complainant in this matter; as the learned advocate for the respondents has submitted the Court.

50. Similarly, he has brought to the notice of this Court that,there was no application for production of documents has been filed in past by the complainant as against these respondents in this matter. Then, he tried to bring it to the notice of this Court that, annexure was filed for first-time by the complainant in the file before the Hon'ble High Court only and not earlier in this Complaint (ULP)-matter before this Court. Page No. 3 of the Writ Petition No. 2688/1996 got filed by him. At Kanjurmarg as on today; no work has been available with the employer, but it has stopped its manufacturing-activities in the year 1995 itself; as the complainant himself has also completed 62 years old as on today. To that effect, Page No. 48 and 52 he has pointed out to this Court, and therefore, he has referred to and relied upon the case-laws, on which the respondents have relied upon. Then, lastly on 24th December 2010 before this Court it is the oral submission of the learned advocate for the respondents; that as far as this issue is concerned namely; that Para 15 of the written-statement, the seniority list so maintained got complied by it. Annexure 'B' (Exh.'B') got attached by him, but it was done by him in the writ matter before the Hon'ble Bombay High Court only and not before this Court in this matter. Exh.U-34, U-4 list filed by him. He was not getting weekly off or wages for weekly-off. As per MVW Rules, more particularly Rule 23 proviso 14, no wages to be paid for rest-day as mentioned therein. *Vide* Para 38 below Exh.C-3 in its 'written-statement', it is mentioned that, there was no violation of 'Model Standing Orders', at the hands of the respondent-company and lastly the learned advocate for the respondents has tried to distinguish the case-laws; on which, the Complainant has relied upon; respectively.

51. No doubt; as far as the pleading of the complainant touching to the alleged-violation of 'Model Standing Orders' and Industrial Employment (Standing Ordes) Act, 1946, in its breach has been duly pleaded by the complainant himself below Exh. U-1, more specifically *vide* Para 3(h) on page No. 6 with further mentioned that, the respondents have deprived the complainant or the status and benefit of mandatory provisions as per Section 25F and 25(G) of the ID Act, 1947 and thereby committed unfair labour practice as per Items 9 and 10 of Schedule IV of the Act, 1971.

52. In this respect; for proving the unfair labour pratices both on facts and in the eyes of law; the heavy and initial burden of proof lies on the shoulder of the complainant only and in furtherance thereof; the complainant has examined himself on oath before the Court and that has been recorded below Exh. U-14 on oath before the Court (running Page No. 48 to 63). His cross-examination got duly recorded and completed.

53. Before proceeding further by this Court; in order to assess, scrutinise and scan the oral as well as documentry evidence, of course,from the material on record; in the form of reconstructed-file before this Court; after remand-order was passed by the Hon'ble Bombay High Court; to that effect. It is necessary for this Court to refer to schedule (Section 2A *i.e.* matters to be provided in Standing-Orders) Model Standing Orders and Amendment under this Act *i.e.* Industrial Employment (Standing Orders) Act, 1946; it is in relation to for attendance and late coming. Schedule 'I' *i.e.* Model Standing Orders, for doing manual or technical work under hearing (g) 'Uninterrupted service'; includes service interrupted on account of any of the following reasons, namely; Schedule (iv) *"law-off as defined in the Industrial Disputes Act, 1947"* and as per Section 4(B)(2) *"All temporary vacancies of permanent workmen shall be filled by appointing their badlies whose names are entered in the register maintained under sub-clause (1) Such appointment shall be made on the basis of seniority-cum-regularity in attendance".* As per Section 4(*C*) of this Model Standing Orders, under the heading of Schedule 'I' provides, that *"A badlie or temporary who has put in 190 days' uninterrupted service in the aggregate in any establishment of seasonal nature of 240 days "unintrerrupted service" in the aggregate in any other establishment, during a period of preceding twelve calender months, shall be made permanent in that establishment by order in writing signed by the Manager, or any person authorised in that behalf by the Manager, irrespective of whether or not his name is on the muster roll of the establishment throughout the period of the said twelve calender months. Explanation for the purpose of this clause any period of interrupted service, caused by cessation of work which is not due to any fault of the workman concerned, shall not be counted for the purpose of computing 190 days or 240 days, or, as the case may be, for making a badlie or temporary workman permanent".*

54. In the light of this statutory-provision so made as per Section 52 of the Factories Act, 1948; so pointed out (1); which provides *"No adult worker shall be required or allowed to work in a factory on the first day of the week (hereinafter referred to as the said day) unless—*

(a) he has or will have a holiday for a whole day on one of the three days immediately or after the said day."

55. With this legal background; it is now for this Court to take into account the oral evidence adduced by both the sides to this litigation.

56. In this respect; the complainant's oral evidence below Exh. U-14 got recorded on oath before the Court; wherein in his chief, he has deposed that, in the month of January, 1975 as a temporary workman, he was employed with the respondents with Ticket No. 7217. Thereafter, he was alotted duty as a 'Watchman'. Thereafter, he was given a job rotar-assembler. He was introduced by permanent-workmen by name; Vashnu Balvant Sawant. A first-break was given to him on 15th May 1975. Then, fresh-appointments were issued by issuing every appointment letter was given only for the month.

57. *Vide* Para 4 in his chief, 'he was alloted with Tecket No. 9112 in the year 1985. After his first break in the year 1975 (May) he has approached the company on many occasions. The settlement between the said union and the respondents has taken place on 24th June 1988 about making temporaries, as per the seniority', permanent. It was in force till 30th September 1990 i.e. Annexure 'C' to Exh.O-3 filed by the company. *Vide* Para 8 in his chief, he has further mentioned that, he was at Sr. No. 2 in the said list. The said seniority list is at below Exh. U-16. During the period of 1975 to 4th September 1985; he was residing at the same-address, when he was in the employment of the company. On 4th September 1985 he was reemployed by the respondent-company and a fresh appointment letter was given to him, for the period of one month. It is Exh. U-15. The letter given by late Dr. Datta Samant, President in his favour and he was reemployed *vide* Annexure 'B'.

58. In his chief *vide* Para 12 he has specifically mentioned and deposed that, on 6th May 1990, he was not told by the Production-Manager that, he would be given break from 7th May 1990. But he was on sanctioned have of without pay from 7th May 1990 to 31st May 1990.

59. In respect of making-permanent to these temporary employees, there was Exh.U-16 a notice pasted on the noticeboard on 31st January 1989. Similar type of letters were issued to Shri Mhajan and Shri Karawade below Exh. U-20. And further he stated *vide* Para 13 that, the company has given maximum break of one month and minimum break of 15 days from 4th September 1985 after his reappointment. The company has given him a full-pay for the said period; even though he was absent from duty for union work.

60. In his cross-examination furtehr on Page No. 11 running Page No. 58 he has submitted that, Exh. U-16 copy was given to the committee member.

61. In his cross-examination on page No. 15 below Exh.U-14 running Page No. 62; he has admitted that, he was called only once. It was roughly on 4th September 1985. And further admitted in the same breathing that, before one or two months of his joining in the year 1985, he gave letter of Dr. Datta Samant to the company. Further it is admitted that, break letter used to be given to the temporaries at the time of termination; company used to pay all arears or dues within 3-4 days after break. But he has denied the suggestion, whether the last appointment letter was given to him was to expire on 7th May 1990. The specific-admission, the complainant has given in his cross on Page No. 16 running Page No. 63, the Court to quotes him, *"Current leave of 1990, I received termination letter on 2nd June 1990. I don't know, whether temporaries were never applying for E-Leave, but only used to encash it. I have received letter dated 6th may 1990 on 2nd June 1990 and I was called to collect all dues. I have not cullected my dues. I have applied for 15 days leave to time office. I don't remember".*

62. On behalf of the respondents; a person by name; Shri H. P. Bhosale, Assistat Personnel Manager got examined on oath below Exh.U-14 rnning Page No. 67; wherein *vide* para 8 he has shown below Exh. C-11 is the 'statement' showing the details of temporaries, who have been made permanent in service, and their respective-employment period. The document dated 8th October 1987 at Exh.C-11, is voucher showing the encashment of privilege leave of Shri Trimbakkar. No P.L. is granted to the temporaries; however, at the time of termination or removal of such employee the cash amount is paid *in lieu thereof*.

63. In his examination-in-chief *vide* Para 10 he has deposed that, the Complaint (ULP) No. 118/1981 filed by the 'Association of Enginering Workers Union', has been dismissed. It was for permanancy of the temporary-workmen. The complainant's name was not included in the list of temporaries annexed to the said complaint.

64. In his cross-examination on running Page No. 72 *vide* Para 15, he has admitted that, the company can produce the acknowledgment of the termination-letter sent to the complainant by RPAD/UPC. The original termination order is sent to the complainant and the legal dues were also sent by post. *Vide* Para 16 he has admitted that, seniority does not depend upon the ticket-number. But admitted that, Annexure 'A' to Exh. C-6 is the list of workers, who are made permanent in compliance of the agreement of 1988. The total number in the said list of 623. Further in his cross-examination, he has given answer to the suggestion by deposing that, no-pay of that period has ever been paid to him. Shri Ambedkar did not sanction his leave for that period, of any kind. And lastly; on page 12 running page no. 75 the said-witness for the respondents below Exh. C-14 has admitted that, present complaint has been filed by the complainant on the basis of the settlement of 1988.

65. From the assessment of this oral evidence, the Court has to switch on to the documentary-evidence i.e. Annexure 'A' on Page No. 1 with the list below Exh. C-22; giving the dates of appointment and termination right from 2nd Januery 1975 to 6th May 1990. Then, employment-details *vide* Annexure 'B' also gives such a type of information *i.e.* during the last preceding 12 months to the date of alleged-termination; has shown that the complainant had worked right from 23rd September 1989 to 6th May 1990 *i.e.* 226 days; it shows and the footnote in the handwriting, it is mentioned therein that, 52 sundays/Weekly off to be allowed. However, by going through and assessing with the oral as well as documentary evidence. It is clenching point to be noted down here that, the complainant has neither pleaded specifically that, in which month and year he has completed 240 days of continuous service; not he has specifically mentioned by way of pleading below Exh.U-1; nor in his examination-in-chief below Exh.U-14 that, in the last preceding 12 months to the date of his alleged oral termination, he has completed 240 days of continuous service within the meaning of Section 25-B of the ID Act, 1947; read with the repective Model Standing Order of the respondent company under the provisions of the Industrial Employment (Standing Orders) Act, 1946,too. And for that conut; 240 days uninterrupted service-defined therein. The complainant has neither pleaded, nor proved, of course, through the cogent evidence before the Court that, he has completed 240 days of continuous service within the meaning of Section 25-B of the ID Act, 1947; nor he has examined any of his co-workman by citing him as a 'witness' to support, corroboarate and substantiate his case on this count in the matter before the Court. But as he has admitted that in the month of September, 1985 he has been given a fresh appointment-letter and lastly he worked on 6th may 1990. Initially, he worked in the year 1975 that too, for 4½ monthes only and this is after a gap of nearly 10 years he got reappointment letter and he worked accordingly in the employment with the respondnets. Therefore, by taking into consideration of this aspect in relation simultaneously to the statutory provisions relevant to that effect;as far as the ID Act, 1947; as well as the Industrial Employment (Standing Orders) Act, 1946 as narrated as above; it is held that, the complainant has utterly failed to prove that, he has completed 240 days of continuous service during the last preceding 12 months to the date of his alleged impugned-termination. And therefore, in other words, the complainant, it is held that has failed to prove the Issue No. 1, of course, through the cogent evidence before the Court.

66. In this respect; through the compilation below Exh.U-39 the law propounded by the Hon'ble Supreme Court of India, in the matter between *Gopal Krishnaji Ketkar* V/s. *Mohd. Haji latif and Ors. reported in AIR-1968-SC-1413* and the law laid down therein is that.....

> *"As per Section 114(g) and Section 103 of the evidence Act-A party in possession of best evidence which would light on the issue in controversy withholding it. Court ought to draw an adverse inference against him notwithstanding that onus of prrof does not lie on him."*

67. In this respect; it is to be noted here that, the complainant throughout his complaint has not sought any production of documents relevant for the adjudication of the dispute or for proving his case as against the respondents; through any notice of document or any application for production of documents from the possession/custody of the respondents. Therefore, no adverse interference is deserved to be drawn as agianst these respondents and a benifit of the same is required to be in favour of the complainant; for the simple reason that, the complainant has failed to prove this Issue No. 1, of course, through the cogent evidence. Therefore, with due respect, the law laid down therein does not help and assist the present complainant in this matter; as the facts and circumstances are not identical one.

68. Similarly, the law propounded by the Hon'ble Supreme Court of India, in the matter between *Shankar Chakravarti* V/s. *Britannia Biscuit Co. and Anr. resported in 1979-II-LLJ-194-SC;* with due respect, does not extend any help and assistance to/of the complainant in this matter; for the reason that, facts are not indentical with each other.

69. In respect of the law propounded by our Hon'ble Bombay High Court, in the matter between *Maharashtra State Board of Secondary and Higher Secondary Education, Amravati and Anr.* V/s. *Sanjay Krishnarao Shrungare, Amravati, reported in 2008-II-CLR-301;* in respect of the Section 25-F, 25-G and 25-H of the ID Act, 1947 with due respect; also would fall short of not coming to the assistance of this complainant; as the facts and circumstances are quite different one.

70. Again; it is the judgment of the Hon'ble Supreme Couer of India, in the matter between *Shri H. D. Singh* V/s. *Reserve Bank of India and Ors. reported in 1986-I-LLJ-127-SC;* with due respect, would not be of any help of this complainant; as the set of facts and circumstances as narrated in this complaint are not Identical to that of the reported case-law.

71. Through the compilation below Exh.C-26; it is the Judgment of the Hon'ble Karnataka High Court, in the matter between *Himalaya Drug Co., Bangalore* V/s. *Taj Ahmed, reported in 2005-LLR-754.* It is in respect of Section 25-'B' and non-compliance of Section 25-F of the ID Act, 1947. And on the same Law-point; there is a Judgment of our Hon'ble Bombay High Court, in the matter between *Union of India, through Divisional Railway Manager, Mumbai* V/s. *Jairaj N. Shetty, reported in 2003-III-CLR-374* would help to the respondents accordingly; as the facts and circumstances are identical enough.

72. As far as the Issue No. 1 is concerned; the learned advocate for the respondents through the compliation below Exh.C-26, has heavily relied upon the latest-Judgment of our Hon'ble Bombay High Court, in the matter between *Habib Patel s/o. Shami Patel* V/s. *Kaniz Akhtar w/o. Altaf Khan, reported in 2010(6)-MLJ-429;* wherein it is held that.....

"Order 7 and 8 of CPC-It is necessary for a party to plead and prove the specific facts which result in causing loss to the party."

Order 8 Rule 10 of the CPC–Even in a case where no written statement is filed, the Judgment should be a self-contained document, containing a concise statement of the case and the process of reasoning by which the Court comes to the conclusion that the suit should be decreed. AIR-1999-SC-3381, Ref. (para 11.).

Further it is held that.....

Written statement not filed by the defendant in a suit against him filed by plaintiff-Even in the obsence of a written statement, it would be necessary for a party to establish his claim-Case of the plaintiff cannot be said to be ipso facto proved merely because the defendant fails to file a written staement.

73. And this precisely applies to the facts and circumstances as narrated in this matter; since the 'affidavit-in-reply' dated 31st July 1990 of the respondents (running Page No. 24 to 40) with the list below Exh. C-22, has been and could be treated as the 'written-statement' in the file before the Court; that too in the changed scenario of the reconstructed-file in this matter before the Court as on today. Since filing of the 'affidavit-in-reply' by the respondents below Exh.D-63 on 31st July 1990 has not been controverted by this complainant in rebuttal; too. Hence, the proposition of law so laid down by our Hon'ble Bombay High Court through its latest Judgment *(supra 2010(6)-MLJ-429)* does apply to the facts and circumstances as narrated in this Complaint (ULP) matter; in *toto*. Similarly, the law propounded by the Hon'ble Supreme Court of India, in the matter between *Manager, R.B.I., Bangalore* V/s. *Mani and Ors. reported in 2005-LLR-737;* wherein it is held that....

"Industrial Adjudication—Burden of proof to establish about 240 days' working in preceding one year of the termination of the workmen— The initial burden of proof was on the workmen to show that they had completed 240 days of service — The Tribunal did not consider the question from that angle—It held that the burden of proof was upon the appellant on the premises that they have failed to prove their plea of abandonment of service—A party to the lie may or may not succeed in its defence"

And in the Importance Points it is mentioned that.....

It is for the workmen and not the employer to prove, by evidence and not merely relying upon the pleadings, that they had completed 240 days' service in the preceding one year of their termination, as such, the Industrial Tribunal has erred in holding that the burden produce the record about the continuous working of the workmen hence the Supreme Court set aside the award of the Industrial Tribunal being erroneous."

74. Thus, here in this matter, as the complainant has not proved the issue in respect of completion of 240 days, of course, through the cogent evidence; as also the law propounded by the Hon'ble Supreme Court of India, in the matter reported in *2005-LLR-737 (supra)* squarely applies to this Complaint (ULP) matter before this Court. On the same law-point; it is the judgment of the Hon'ble Supreme Court of India, in the matter between *The Range Forest Officer* V/s. *S. T. Hadimani, reported in 2002-LLR-339* it also heps and assist the respondents in this matter. Thus the Issue No. 1, of course, on the basis of the plethora of material on record as narrated and discussed above; is required to be answered in the 'Negative', for thaae reasons as mentioned above.

75. *Issue Nos. 2 and 3.*—As far as these issues are concerned; which are in relation to alleged-discrimination between the complainant, as well as his co-workman without considering the merits, length of service etc. in respect of permanency. The Court has perused the documents, which are with the list below Exh.U-34 as Sr. No. 1 to 14 as enumerated therein *i.e.* in the form of xerox copies of wage slips for the month of January 1975 to April 1975; alongwith the bonus slip for the year 1974-75. Then, payment vouchers for wages dated 19th March 1975. Then PL-wages for the period 2nd January 1975 to 15th May 1975; plus First-Phase-Seniority-List of temporary workmen, for permanency. The Court has also gone through from Page No. 1 to 4 company's gate-pass, medical certificate, xerox copy of the order dated 24th August 1990 passed by this Court, postal acknowledgment, notice of his advocate to the respondents dated 14th July 1990; etc., It is also not disputed that, the name of the complainant with Division No. 7 *vide* Ticket No. 9112 is mentioned at Sr. No. 2 of the said seniority-list; for which cut-off date was so mentioned therein as a 19th May 1978 *i.e.* under the heading of 'First-Phase-Temporary-Workmen' 'Seniority-List', for permanency. Then, the Court has also perused other list of seniority as mentioned therein; but none of these seniority-lists, it authentication by way of on the letterhead of the respondent-company and the officers signature of the said seniority list prepared and/or sealed of the respondent company; thereon.

76. It is disputed in respect of the ad-interim order so passed by this Court dated 24th May 2010; since it is the matter of record in the file before the Court.

77. In this respect; the judgment of our Hon'ble Bombay High Court, in the matter between *R. P. Sawant and Ors. V/s. Bajaj Auto Ltd. and Anr., reported in 2001-II-CLR-982;* through the compilation below Exh.U-41 has taken by the complainant in this matter; wherein it is held that.....

> *"By this device the object of the company was to deny permanency benefits— As a result of dissatisfaction amongst such temporary workmen, more than 700 complaints came to be filed. As a result, no temporary employee would complate 240 days service in a period of 12 months— These workmen were employed to do permanent and perennial work."*

78. However, with due respect; in the matter before the Court in the form of Complaint (ULP) filed under the Act, 1971; the complainant has not proved this aspect showing that he was doing the same and similar type of work as to that of permanent-workmen, which is permanent and perennial in nature, of course, through the cogent evidence before the Court. Hence, with due respect; the low propounded by our Hon'ble Bombay High Court, in the matter reported in *2001-II-CLR-982 (supra)* would not come to the help and assistance of this complainant in this matter; since there was a gap of nearly 10 years in the complainant's initial appointing him as a temporary-workman for a particular period as mentioned therein in the year 1975 and later on subsequently, in the year 1985; he got appointed again as a temporary/casual-workman for a fixed-period as mentioned therein. And this is also based upon the negative finding the Court has given to the Issue No. 1 as above. Even, it is not disputed in this matter that, the recognized-trade-union under the Act, 1975 has made its indulgence thereby seeking impleading it as a party to this litigation, though its application below Exh. G-83 dated 26th April 1991. hence, it cannot be denied that, the concerned recognized-trade-union under the Act, 1971; of which, the complainant was a member wanted to support the case of the complainant by way of its positive-indulgence. On this count; the respondents have no case.

79. Then, on the same law-point; it is the judgment of our Hon'ble Bombay High Court, in the matter between *Shahar Palika Kamgar Union. Ahmednagar V/s. Chief Officer, Ahmednagar Municipal Council, Ahmednagar, reported in 2007-I-CLR-566;* through the compilation below Exh.U-41 with regard to Item 6 of Schedule IV of the Act, 1971.

80. Then, the judgment of our Hon'ble Bombay High Court, in the matter between *Kerala State Electronics Development Corporation Ltd., V/s. Jayshree N. K. and Anr., reported in 2003-III-CLR-568.* Again, it is in respect of granting of permanancy benefits as per Section 30 of the Act, 1971.

81. Then, with the compilation below Exh.U-39 in the matter between *Century Rayon (A Division of Century Textiles and Industrial Ltd.) V/s. Anand Dadau Ubale and Ors., reported in 2005-II-CLR-701* and the law laid down therein is that.....

"These two complainants have been in uninterrupted service and they are paid poor wages as compared to regular workman. They filed complaint of unfair labour practice alleging that they are kept temporaries for years together in of violation statutory provisions of standing orders. Industrial Court allowed their complaint and directed that they be given permanency. The order of the Industrial Court got confirmed by this judgment of our Hon'ble Bombay High Court."

82. Here in the matter under consideration; as per the negative finding the Court has given to the Issue No. 1 also; the complainant cannot take benefit of this judgment; as the facts and circumstances are different one.

83. On the same-law point; it is the judgment of our Hon'ble Bombay High Court, in the matter between *Mahindra and Mahindra Ltd., Nagpur V/s. Avinash D. kamble and Anr., reported in 2008-II-CLR-265;* wherein it is held that....

"Employer has indulged in favouritism—Commission of unfair labour practice under Item 5 has been rightly held to have been established—Learned Single judge rightly held in favour of the workmen."

84. Again on the same law-point; it is the judgment of our Hon'ble Bombay High Court, in the matter between Gannon *Dunkerley and Co. Ltd. V/s. G. S. Baj, member, Industrial Court and Ors., reported in 2005-III-CLR-928.* Then, there is a judgment of our Hon'ble Bombay High Court, in the matter between *Indian Smelting and Refining Co. Ltd., V/s. Sarva Shramik Sangh, reported in 2009-I-CLR-590;* wherein it is held that.....

"These workmen have been employed between 1996 and 1998 and they have put in continuous service for more than 240 days. Company has to comply with the mandate of law."

85. Then , the judgment of our Hon'ble Bombay High Court, in the matter between *Parke-Davis (India) Ltd., V/s. Mahadev Bhiku Jadhav and Ors., reported in 2008-II-CLR-638;* wherein individual complainant/workman can file complaint, ireespective of settlement/agreement with the recognized-trade-union under the Act, 1971 as held therein.

86. On the other hand; in this respect, it is the judgment of the Hon'ble Supreme Court of India, in the matter between *Municipal Corporation, Faridabad V/s. Siri Niwas, reported in 2004(103)-FLR-187,* through the compilation beow Exh. C-26 relied upon by the respondents in this matter; wherein it is held that.....

"Further more a party in order to get benefit of the provisions contained in section 114(f) of the Indian Evidence Act must place some evidence in support of his case."

87. The law propounded by the Hon'ble Allahabad High Court, in the matter between *U. P. Power Corporation Ltd. and Ors. V/s. Presiding Officer, Labour Court, Gorakhpur and Ors. reported in 2008-LLR-87* is in respect of the Indistrial Disputes Act, 1947. Hence, It cannot be with due respect; extend any help and assistance to these respondents.

88. In this respect; through the compilation below Exh.C-26, the respondents have taken shelter of the judgment of our Hon'ble Bombay High Court, in the matter; between *Permanent Magnets Ltd., V/s. Workmen Employed and Anr. reported in 2006-III-CLR-801;* wherein it is held that.....

"Tribunal clearly erred in holding that workmen had attained the benchmark of 240 days, that the burdern to prove 240 days working was on the employees and that the Tribunal was not justified in directing grant of permanency to 18 workmen with consequential benefits."

89. It does extend the help and assistance in favour of the respondents in this matter particularly in the backdrop of the negative finding the Court has given to the Issue No. 1 in this matter as above.

90. No doubt; the complainant has produced on record a number of documents through its xerox copies below Exh.U-34; but they have not been proved by this complainant, of course, through his oral evidence below Exh.U-14 on oath before the Court. Hence, they cannot be read in evidence and would not extend any help and assistance in favour of the complainant.

91. Accordingly, it is held, of course, on the basis of the material on record as on today in the file before the Court that, the complainant has failed to prove that, the respondents have indugled into an unfair labour practices within the meaning of Items 6, 9 and 10 of Schedule IV of the Act, 1971, of course, through the cogent evidence before the Court. Before this Court parts with the findings of these issues; It is worth to be mentioned that, the very agreement/settlement so entered into betweeen the recognized-trade-union and the management of the respondents dated 24th June 1988. And the same is also binding on boath the parties to this litigation as far as these issues are concerned; since it has not been denied that some of the temporary-employees on the basis of their seniority-list have got confirmed/made permanent already by the management in consonance thereof.

92. *Issue Nos. 4 and 5.*—In this respect; the cognizance is required to be taken of the affidavited-testimony so filed by one Shri N. V. Wadekar below Exh.C-25 on 30th November 2010 in this matter before the Court, stating that copies of the documents below Exh.C-22 were filed by the company before this Court in this complaint to assess the Court; to reconstruct the records of this Courts and also to bring the subsequent facts of discontinuation of its manufacturing-activities and other related activities of the 'Machine Division-IV' situated at Bhandup; wherein the complainant was working at the material time as a 'causal/temporary-workman'. Wherein it has also mentioned *vide* Para 5 that, Exh.'B' at Page No. 2 below list of documents dated 14th January 2010 (Exh.C-22) are the documents, showing the calculation of alleged actual working days was not submitted, not relied upon/admitted by the respondents; but got filed for the first time by the complainant in the Writ Petition No. 2688/1996 before the Hon'ble High Court.

93. *Vide* Para 8 it is further mentioned therein that, the complainant has not at all completed 240 days during the calender year immediately preceding to the date of termination/discontinuation of his services *i.e.* 6th May 1990. And lastly; *vide* Para 10 it is mentioned by the said witness below ExhC-25 in his affidavited-testimony that, manufacturing and other related-activities of the Machine Division-IV of the respondent company located at Bhandup wherein the complainant was employed as a casual/ temporary worker at the material time, have been totally discountinued with effect from 27th June 2001; since the same has become economically-inviable, as nobody is employed in the Machine Division-IV at Bhandup; not work is available therin as on today.

94. Then, below Exh.C-24 is the classification made by the respondents filed on record on 30th November 2010. Then, below Exh.U-40 and Exh.U-42 in the form of 'reply' to the alleged classification application dated 30th November 2010 filed on behalf of the respondents. And below Exh.U-42 *i.e.* reply to the points raised by the learned advocate for the respondents got filed by the learned advocate for the complainant on record on 22nd December 2010 respectively, if taken into consideration as far as these issues are concerned. Similarly, as far as the negative finding the Court has given to the Issue Nos. 1 to 3 as above respectively in this matter; the complainant is not deserved to be granted with any relief.

95. Therefore, at this juncture; it is held that the complainant is not deserved to be granted with any relief he has prayed below Exh.U-1; keeping in view the peculiar set of facts and circumstances as narrated in this matter.

96. pausing for a while; it is an exception to the general rule; so also in a peculiar set of facts and circumstances in the form of this Complaint (ULP) matter before this Court; that too after getting it reconstructed matter as per the sepcific order of the Hon'ble President,Industrial Court, Mumbai; to that effect. In equity; it is worth to be observed by this Court, at this juncture that, the complainant cannot be blamed for loss of proceedings; including the documents during the pendency of this litigation, which has traveled from this Court to the Higher Court of appeal/Hon'ble Writ Court also; which the documents relevant for adjudication of the dispute in the form of deciding

the lis, of course, as per the provisions of the Act, 1971. Since there has been a controversy in the form of allegations and counter-allegations with a specific-reference to filing of the documents at the first instance initially by the complainant in the file before the Court and with a counter-allegation that, for the first time the complainant has filed a chart/statement showing his total days of work during the period; he alleged to have been worked in the employment with the respondents; got filed for the first time in the matter wherein it is seized with our Hon'ble Bombay High Court, in the respective writ petition. This controversy cannot be sorted out by this Court, at this juncture in this matter; which has traveled and remained pending for nearly the last 120 years.

97. Therefore, in the fitness of things; by invocation of Section 30(*1*)(*b*) of the Act, 1971, it would be just and equitable for this Court, of course, in equity; to grant a reasonable but special compensation in favour of this complainant to the tune of Rs. 20,000 payable by the respondent-company; to that effect. It is also made clear here that, as it is the contention of the complainant and that has come in the oral evidence of the complainant that, he did not accept the retrenchment compensation/his legal dues, if any offered/alleged to have been paid by post on behalf of the respondent-company in his favour; if not paid already; then it would be the liability of the respondent-company to pay the same; irrespective of the negative finding the Court has given to the Issue Nos. 1 to 3 as above. With this view in mind; finally the Court proceeds to pass the following order; which would meet the ends of justice, equity and good conscience.

Order

(*1*) *The Complaint (ULP) No.511/1990 filed by the complainant below Exh.U-1 under Section 28 read with Section 30 for Unfair Labour Practices as per Items 5, 6, 9 and 10 of Schedule IV of the Act, 1971 stands dismissed, of course, with no order as to costs.*

(*2*) *Notwithstanding with the aforesaid Order No. 1; the respondents are hereby directed to pay a sum of Rs. 20,000 in favour of the Complainant towards a reasonable-compensation (token-compensation) within a month from today by way of deposit with the office of this Court.*

(*3*) *So also; the respondents to pay the complainant an amount of his legal dues, if not already paid.*

(*4*) *The office of this Court is to submit and furnish a 'report of complance' to the office of our Hon'ble Bombay High Court; to that effect accordingly, of course, through a separate covering-letter.*

S. K. SHALGAONKAR,
Member,
Industrial Gourt, Mumbai.

Mumbai,
date the 14th January 2011.

K. N. DHARMADHIKARI,
I/c. Registrar ,
Industrial Court, Mumbai.
dated 1st February 2011.

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